



**CITY OF WHARTON  
FINANCE COMMITTEE MEETING**

**Monday, May 13, 2024  
12:00 PM**


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

**NOTICE OF  
CITY OF WHARTON  
FINANCE COMMITTEE MEETING**

Notice is hereby given that a Finance Committee Meeting will be held on Monday, May 13, 2024, at 12:00 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 9th day of May 2024.


By:   
Joseph R. Pace, City Manager

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Finance Committee 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 May 9, 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 9th day of May 2024.

**CITY OF WHARTON**

By:   
Paula Favors  
City Secretary



**A G E N D A**  
**CITY OF WHARTON**  
**Finance Committee Meeting**  
**Monday, May 13, 2024**  
**City Hall - 12:00 PM**

**Call to Order.**

**Roll Call.**

**Public Comments.**


**Review & Consider:**

1. Minutes from the meeting held March 25, 2024.
2. Ordinance: An ordinance of the City Council of the City of Wharton, Texas, accepting and approving a Service and Assessment Plan and Phase #1 Assessment Roll for the Wharton Public Improvement District No. 2; making a finding of special benefit to the property in Phase #1 of the District; levying special assessments against property within Phase #1 of the District and establishing a lien on such property; providing for the method of assessment and the payment of the assessments in accordance with Chapter 372, Texas Local Government Code, as amended; providing penalties and interest on delinquent assessments; providing for severability; and providing an effective date.
3. Resolution: A resolution of the Wharton City Council approving an agreement for benefits consulting services and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement.
4. Ordinance: An ordinance declaring a public necessity for rights of entry and/or acquisition to the below listed properties located in Wharton, Texas, for a public purpose, namely for geotechnical studies, appraisal, surveying, environmental assessments and borings and/or acquisition, to include fee simple acquisition, public drainage, and levee easements for the Lower Colorado River Basin Phase II, Texas, Wharton Flood Risk Management Project; ratifying and affirming all prior acts and proceedings done or initiated by attorneys and employees of the City to acquire such rights of entry/acquisitions for the property; authorizing all other lawful action necessary or incidental to such rights of entry/acquisitions.

**Adjournment.**

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

## FINANCE COMMITTEE

Meeting Date:	5/13/2024	Agenda Item:	Minutes from the meeting held March 25, 2024.
<p>Attached is a copy of the draft minutes from the meeting held on March 25, 2024.</p>			
City Manager: Joseph R. Pace		Date: Thursday, May 9, 2024	
Approval: 			
Mayor: Tim Barker			



**MINUTES  
OF  
CITY OF WHARTON  
FINANCE COMMITTEE MEETING  
120 EAST CANEY STREET  
WHARTON, TEXAS 77488  
Monday, March 25, 2024–5:30 p.m.**

City Manager Joseph R. Pace declared a meeting of the City Council Finance Committee duly open for the transaction of business at 5:30 p.m.

Committee Members present: Mayor Tim Barker, Councilmember Larry Pittman, and Councilmember Russell Machann.

Committee Members absent: None.

City Council Members present: None.

Staff members present: City Manager Joseph R. Pace, Finance Director Joan Andel, Public Works Director Roderick Semien, and EMS Director Christy Gonzales.

Staff members absent: Assistant to the City Manager Brandi Jimenez.

Visitors: Mr. Brian Jarrard.

Public Comments. There were no public comments.

The first item on the agenda was to review and consider minutes from the meeting held on February 26, 2024. Councilmember Russell Machann made a motion to approve the minutes as presented. Councilmember Larry Pittman seconded the motion. All voted in favor.

The second item on the agenda was to review and consider a Resolution: A resolution of the Wharton City Council authorizing the purchase of one (1) PowerPro2, stair chair, LifePak15, and PowerPro-ProCare from Stryker Medical for the Emergency Medical Services Department and authorizing the City Manager of the City of Wharton to execute all documents related to the said purchase. EMS Director Christy Gonzales stated to the Committee that the EMS Department was requesting to purchase one (1) PowerPro2, stair chair, LifePak15, and PowerPro-ProCare from Stryker Medical for the EMS Department. She presented the quote to the Committee. After some discussion, Councilmember Russell Machann made a motion to recommend to the City Council to approve the resolution authorizing the purchase of one (1) PowerPro2, stair chair, LifePak15, and PowerPro-ProCare from Stryker Medical for the Emergency Medical Services Department. Councilmember Larry Pittman seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a Resolution: A resolution of the Wharton City Council approving a Professional Engineering Services Agreement with Quiddity Engineering, LLC, to submit the City of Wharton Wastewater Treatment Plant No. 1 Application for Renewal of Permit WQ0010381001 to the Texas Commission on Environmental Quality and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. Public Works Director Roderick Semien stated to the Committee that the City of Wharton's permit for the operation of Wastewater Treatment Plant No. 1 would expire on February 26, 2025. He stated that the renewal permit application must be submitted for review no later than August 30, 2024, which was 180 calendar days prior to the permit expiration date. He stated that the City engaged Quiddity Engineering, LLC, to prepare the application. After some discussion, Councilmember Larry Pittman made a motion to recommend to the City Council to approve the resolution approving a Professional Engineering Services Agreement with Quiddity Engineering, LLC, to submit the City of Wharton Wastewater Treatment Plant No. 1 Application for Renewal of Permit

WQ0010381001 to the Texas Commission on Environmental Quality. Councilmember Russell Machann seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a Resolution: A resolution of the Wharton City Council approving a Professional Engineering Services Agreement with Quiddity Engineering, LLC, to develop and submit the Environmental Protection Agency's (EPA) Lead and Copper Rule Revision (LCRR) to the Texas Commission on Environmental Quality and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. Public Works Director Roderick Semien stated to the Committee that a proposal was received from Quiddity Engineering, LLC, to assist the City of Wharton with the Environmental Protection Agency's (EPA) Lead and Copper Rule Revision (LCRR) development and submission to the Texas Commission on Environmental Quality (TCEQ). He stated that the service included in the agreement assisted the City of Wharton in developing and submitting the Initial Lead Service Line Inventory (LSLI). He stated that due to the recent changes in the Lead and Copper Rule, the EPA required an inventory of all lead service lines within the public water system (40 CFR 141.84). He stated that the LSLI had to be completed and submitted to TCEQ by October 16, 2024. After some discussion, Councilmember Russell Machann made a motion to recommend to the City Council the approve the resolution approving a Professional Engineering Services Agreement with Quiddity Engineering, LLC, to develop and submit the Environmental Protection Agency's (EPA) Lead and Copper Rule Revision (LCRR) to the Texas Commission on Environmental Quality. Councilmember Larry Pittman seconded the motion. All voted in favor.

The fifth item on the agenda was to review and consider a Resolution: A resolution of the Wharton City Council entering into a Reimbursement Agreement with Wharton 55, LLC, for Public Improvement District No. 2 and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. Finance Director Joan Andel stated to the Committee that the Reimbursement Agreement was received from Wharton 55, LLC, for Public Improvement District No. 2. She stated that the agreement sets out the creation of a PID Reimbursement Fund where all bond proceeds and assessments received would be deposited, and all PID Project costs would be paid for from this fund. She stated that the City would not be responsible for obtaining the bond funds. She stated that the City's PID/TIRZ Consultants and Paul Webb, City Attorney, had reviewed the document and recommended presenting it to the City Council for approval. After some discussion, Councilmember Russell Machann made a motion to recommend to the City Council the approval of the resolution entering into a Reimbursement Agreement with Wharton 55, LLC, for Public Improvement District No. 2. Councilmember Larry Pittman seconded the motion. All voted in favor.

The sixth item on the agenda was adjournment.


The meeting was adjourned at 6:42 p.m.

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Joseph R. Pace, City Manager

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

## FINANCE COMMITTEE

Meeting Date:	5/13/2024	Agenda Item:	Ordinance: An ordinance of the City Council of the City of Wharton, Texas, accepting and approving a Service and Assessment Plan and Phase #1 Assessment Roll for the Wharton Public Improvement District No. 2; making a finding of special benefit to the property in Phase #1 of the District; levying special assessments against property within Phase #1 of the District and establishing a lien on such property; providing for the method of assessment and the payment of the assessments in accordance with Chapter 372, Texas Local Government Code, as amended; providing penalties and interest on delinquent assessments; providing for severability; and providing an effective date.
<p>Attached you will find the ordinance accepting and approving a Service and Assessment Plan and Phase #1 Assessment Roll for the Wharton Public Improvement District No. 2.</p> <p>Finance Director Joan Andel will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, May 9, 2024
Approval: 			
Mayor: Tim Barker			

# WHARTON PUBLIC IMPROVEMENT DISTRICT No. 2

CITY OF WHARTON, TEXAS

## SERVICE AND ASSESSMENT PLAN

**MAY 13, 2024**

**PREPARED BY:**

**MUNICAP, INC.**  
— PUBLIC FINANCE —

# WHARTON PUBLIC IMPROVEMENT DISTRICT No. 2

## SERVICE AND ASSESSMENT PLAN

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**APPENDIX E - PID ASSESSMENT NOTICE**

**APPENDIX F - PHASE #1 ASSESSMENT ROLL**

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## ***I. PLAN DESCRIPTION AND DEFINED TERMS***

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### **A. INTRODUCTION**

On October 23, 2023 (the “Creation Date”) the City Council (the “City Council”) of the City of Wharton, Texas (the “City”) passed and approved Resolution No. 2023-88 approving and authorizing the creation of the Wharton Public Improvement District No. 2 (the “PID”) to finance the costs of certain public improvements for the benefit of property in such public improvement district (the “Authorized Improvements”), all of which was located within the extraterritorial jurisdiction of the City at the time the PID was created.

The property in the PID is proposed to be developed in multiple phases, and the PID will finance public improvements for each phase as each phase is developed. Assessments will be imposed on the property in each phase for the public improvements to be constructed for the benefit of that phase.

Chapter 372 of the Texas Local Government Code, the “Public Improvement District Assessment Act” (as amended, the “PID Act”), governs the creation and operation of public improvement districts within the State of Texas. The Wharton Public Improvement District No. 2 Service and Assessment Plan (the “Service and Assessment Plan”) has been prepared in accordance with the PID Act and specifically Sections 372.013, 372.014, 372.015 and 372.016, which address the requirements of a service and assessment plan and the assessment roll. According to Section 372.013 of the PID Act, a service plan “must (i) cover a period of at least five years; (ii) define the annual indebtedness and the projected costs for improvements; and (iii) include a copy of the notice form required by Section 5.014, Property Code.” The service plan is described in Section IV of this Service and Assessment Plan. The copy of the notice form required by Section 5.014 of the Texas Property Code, as amended, is attached hereto as Appendix E.

Section 372.014 of the PID Act requires that “an assessment plan must be included in the annual service plan.” The assessment plan is described in Section V of this Service and Assessment Plan.

Section 372.015 of the PID Act requires that “the governing body of the municipality or county shall apportion the cost of an improvement to be assessed against property in an improvement district.” The method of assessing the costs of the Authorized Improvements and apportionment of such costs to the property in the PID is included in Section V of this Service and Assessment Plan.

Section 372.016 of the PID Act requires that “after the total cost of an improvement is determined, the governing body of the municipality or county shall prepare a proposed assessment roll. The roll must state the assessment against each parcel of land in the district, as determined by the method of assessment chosen by the municipality or county under this subchapter.” The Assessment Roll for the PID is included as Appendix F of this Service and Assessment Plan. The Assessments as shown on the Assessment Roll are based on the method of assessment and apportionment of costs described in Section V of this Service and Assessment Plan.

## B. DEFINITIONS

Capitalized terms used herein shall have the meanings ascribed to them as follows:

**“Actual Cost(s)”** means, with respect to an Authorized Improvement, the demonstrated, reasonable, allocable, and allowable costs of constructing such Authorized Improvement, as specified in a Certification for Payment that has been reviewed and approved by the City. Actual Cost may include (a) the costs for the design, planning, financing, administration, management, acquisition, installation, construction and/or implementation of such Authorized Improvement, including general contractor construction management fees, if any, (b) the costs of preparing the construction plans for such Authorized Improvement, (c) the fees paid for obtaining permits, licenses or other governmental approvals for such Authorized Improvement, (d) the costs for external professional costs associated with such Authorized Improvement, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, taxes (property and franchise) (e) the costs of all labor, bonds and materials, including equipment and fixtures, incurred by contractors, builders and material men in connection with the acquisition, construction or implementation of the Authorized Improvements, (f) all related permitting, zoning and public approval expenses, architectural, engineering, legal, and consulting fees, financing charges, taxes, governmental fees and charges (including inspection fees, City permit fees, development fees), insurance premiums, miscellaneous expenses, and all advances and payments for Administrative Expenses.

Actual Costs include general contractor’s fees in an amount up to a percentage equal to the percentage of work completed and accepted by the City or construction management fees in an amount up to five percent of the eligible Actual Costs described in a Certification for Payment. The amounts expended on legal costs, taxes, governmental fees, insurance premiums, permits, financing costs, and appraisals shall be excluded from the base upon which the general contractor and construction management fees are calculated.

**“Additional Interest Component”** means the amount collected by application of the Additional Interest.

**“Additional Interest”** means the 0.50% additional interest rate charged on Assessments (if applicable) pursuant to Section 372.018 of the PID Act.

**“Additional Interest Reserve”** has the meaning set forth in Section V.G of this Service and Assessment Plan.

**“Administrator”** means the employee or designee of the City, identified in any indenture of trust relating to the Bonds or in any other agreement approved by the City Council, who shall have the responsibilities provided for herein.

**“Administrative Expenses”** mean the administrative, organization, maintenance and operation costs associated with, or incident to, the administration, organization, maintenance and operation of the PID, including, but not limited to, the costs of: (i) creating and organizing the PID, including



conducting hearings, preparing notices and petitions, and all costs incident thereto, including engineering fees, legal fees and consultant fees, (ii) the annual administrative, organization, maintenance, and operation costs and expenses associated with, or incident and allocable to, the administration, organization, and operation of the PID, (iii) computing, levying, billing and collecting Assessments or the Annual Installments thereof, (iv) maintaining the record of installments of the Assessments and the system of registration and transfer of the Bonds, (v) paying and redeeming the Bonds, (vi) investing or depositing of monies, (vii) complying with the PID Act and other laws applicable to the Bonds, (viii) the Trustee fees and expenses relating to the Bonds, including reasonable fees, (ix) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors, and (x) administering the construction of the Authorized Improvements. Administrative Expenses do not include payment of the actual principal of, redemption premium, if any, and interest on the Bonds. Administrative Expenses collected and not expended for actual Administrative Expenses in one year shall be carried forward and applied to reduce Administrative Expenses in subsequent years to avoid the over-collection of amounts to pay Administrative Expenses.

**“Annual Installment”** means, with respect to each Parcel, each annual payment of: (i) the Assessments including both principal and interest, as shown on the Assessment Rolls attached hereto as Appendix F or in an Annual Service Plan Update, and calculated as provided in Section VI of this Service and Assessment Plan, (ii) the Additional Interest Component designated for the Additional Interest Reserve described in Section V of this Service and Assessment Plan, and (iii) the Administrative Expenses.

**“Annual Service Plan Update”** has the meaning set forth in Section IV of this Service and Assessment Plan.

**“Assessed Property”** means the property that benefits from the Authorized Improvements to be provided by the PID on which Assessments have been imposed as shown in each Assessment Roll, as each Assessment Roll is updated each year by the Annual Service Plan Update. Assessed Property includes Parcels within the PID other than Non-Benefited Property.

**“Assessment”** means an assessment levied against a Parcel imposed pursuant to an Assessment Ordinance and the provisions herein, as shown on any Assessment Roll, subject to reallocation upon the subdivision of such Parcel or reduction according to the provisions herein and the PID Act. An Assessment for a Parcel consists of the Annual Installments to be collected in all years including the portion of those Annual Installments collected to pay Administrative Expenses and interest on all Assessments.

**“Assessment Ordinance”** means an Assessment Ordinance adopted by the City Council approving the Service and Assessment Plan (including amendments or supplements to the Service and Assessment Plan) and levying the Assessments.

**“Assessment Revenues”** mean the revenues actually received by or on behalf of the City from the collection of Assessments.

**“Assessment Roll”** means the Phase #1 Assessment Roll or any other Assessment Roll in an amendment or supplement to this Service and Assessment Plan or in an Annual Service Plan Update.

**“Authorized Improvements”** mean those public improvements described in Appendix B of this Service and Assessment Plan and Section 372.003 of the PID Act, constructed and installed in accordance with this Service and Assessment Plan, and any future updates and/or amendments.

**“Bonds”** mean any bonds issued by the City in one or more series and secured in whole or in part by the Assessment Revenues.

**“Budgeted Cost(s)”** means the amounts budgeted to construct the Authorized Improvements as used in the preparation of this Service and Assessment Plan.

**“Certification for Payment”** means the certificate to be provided by the Developer, or his designee, to substantiate the Actual Cost of one or more Authorized Improvements.

**“City”** means the City of Wharton, Texas.

**“City Council”** means the duly elected governing body of the City.

**“County”** means Wharton County, Texas.

**“Delinquent Collection Costs”** mean interest, penalties and expenses incurred or imposed with respect to any delinquent installment of an Assessment in accordance with the PID Act and the costs related to pursuing collection of a delinquent Assessment and foreclosing the lien against the Assessed Property, including attorney’s fees.

**“Developer”** means Wharton 55, LLC, a Texas limited liability company.

**“Development Agreement”** means that certain “Development Agreement (Wharton)” by and between the City and Wharton 55, LLC, a Texas limited liability company and related to the Property effective November 15, 2022, as assigned to the Developer, and as the same may be amended from time to time.

**“Equivalent Units”** mean, as to any Parcel the number of dwelling units by lot type expected to be built on the Parcel multiplied by the factors calculated and shown in Appendix F attached hereto.

**“Future Phases”** means Phases that are fully developed after Phase #1, as such areas are generally depicted in Appendix A. The Future Phases are subject to adjustment and are shown for example only.

**“Homeowner Association”** means a homeowner’s association or property owners’ association established for the benefit of property owners within the boundaries of the PID.

**“Homeowner Association Property”** means property within the boundaries of the PID that is owned by or irrevocably offered for dedication to, whether in fee simple or through an exclusive use easement, a homeowner’s association.

**“Lot”** means a tract of land described as a “lot” in a subdivision plat recorded in the official public records of Wharton County, Texas.

**“Lot Type”** means a classification of final building lots with similar characteristics (e.g. commercial, light industrial, multifamily residential, single family residential, etc.), as determined by the Administrator and confirmed by the City Council. In the case of single family residential lots, the Lot Type shall be further defined by classifying the residential lots by the estimated average home value for each home at the time of assessment levy, considering factors such as density, lot size, proximity to amenities, view premiums, location, and any other factors that may impact the average home value on the lot, as determined by the Administrator and confirmed by the City Council.

**“Major Improvements”** mean the Authorized Improvements which benefit all Assessed Property within the PID and are described in Section III.B.

**“Major Improvement Area”** means the property within the PID, excluding Phase #1, which is to be developed subsequent to Phase #1 and generally depicted in Appendix A of this Service and Assessment Plan or any Annual Service Plan Update.

**“Non-Benefited Property”** means Parcels that accrue no special benefit from the Authorized Improvements, including Homeowner Association Property, Public Property and easements that create an exclusive use for a public utility provider to the extent they accrue no special benefit. Property identified as Non-Benefited Property at the time the Assessments (i) are imposed or (ii) are reallocated pursuant to a subdivision of a Parcel, is not assessed. Assessed Property converted to Non-Benefited Property, if the Assessments may not be reallocated pursuant to the provisions herein, remains subject to the Assessments and requires the Assessments to be prepaid as provided for in Section VI.E.

**“Omnibus Reimbursement Agreement”** means that certain Wharton Public Improvement District No. 2 Omnibus Reimbursement Agreement dated as of March 25, 2024, by and between the City and the Developer in which the Developer agrees to fund certain Actual Costs of the Authorized Improvements and the City agrees to reimburse the Developer with interest permitted by the PID Act solely from Assessment Revenues and/ or the net proceeds of Bonds for a portion of such Actual Costs of the Authorized Improvements funded by the Developer for Authorized Improvements constructed and accepted by the City for the benefit of the Assessed Property.

**“Parcel” or “Parcels”** means a parcel or parcels within the PID identified by either a tax map identification number assigned by the Wharton County Central Appraisal District for real property tax purposes or by lot and block number in a final subdivision plat recorded in the real property records of Wharton County.

**“Phase”** means one or more Parcels within the PID that will be developed in the same general time period. The Parcels within a Phase will be assessed in connection with the issuance of Phased PID Bonds for Authorized Improvements (or the portion thereof) designated in an update to this Service and Assessment Plan that specially benefit the Parcels within the Phase.

**“Phase #1”** means the initial Phase to be developed and generally shown in Appendix A, as specifically depicted and described as the sum of all Parcels shown in Appendix F.

**“Phase #1 Assessed Property”** means all Parcels within Phase #1 other than Non-Benefited Property and shown in the Phase #1 Assessment Roll against which an Assessment relating to the Phase #1 Improvements is levied.

**“Phase #1 Assessment Revenues”** mean the actual revenues received by or on behalf of the City from the collection of Assessments levied against Phase #1 Assessed Property, or the Annual Installments thereof, for Phase #1 Improvements.

**“Phase #1 Assessment Roll”** means the document included in this Service and Assessment Plan as Appendix F, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including updates prepared in connection with the issuance of Bonds or in connection with any Annual Service Plan Update.

**“Phase #1 Maximum Assessment Per Unit”** means for Phase #1 an Assessment per unit for each applicable Lot Type as follows:

Lot Type 1 (45 Ft Lot) - \$44,633.29

Lot Type 2 (40 Ft Lot) - \$42,847.96

**“Phase #1 Improvements”** mean the Authorized Improvements which only benefit Phase #1 Assessed Property, which are described in Section III.C.

**“Phase #1 Projects”** mean (i) the pro rata portion of the Major Improvements allocable to Phase #1, and (ii) the Phase #1 Improvements.

**“Phase #1 Reimbursement Agreement”** means that certain Wharton Public Improvement District Phase #1 Reimbursement Agreement expected to be dated by and between the City and the Developer in which the Developer agrees to fund certain Actual Costs of Authorized Improvements and the City agrees to reimburse the Developer for a portion of such Actual Costs funded by the Developer with interest as permitted by the PID Act.

**“Phased PID Bonds”** mean bonds issued to fund Authorized Improvements (or a portion thereof) in a Phase or in Phases. In connection with the Phased PID Bonds, Assessments will be levied only on Parcels located within the Phase(s) in question.

**“PID”** has the meaning set forth in Section I.A of this Service and Assessment Plan.

**“PID Act”** means Texas Local Government Code Chapter 372, Public Improvement District Assessment Act, Subchapter A, Public Improvement Districts, as amended.

**“Prepayment Costs”** mean interest and expenses to the date of prepayment, plus any additional expenses related to the prepayment, reasonably expected to be incurred by or imposed upon the City as a result of any prepayment of an Assessment.

**“Public Property”** means property within the boundaries of the PID that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, Wharton County, the City, a school district or any other public agency, whether in fee simple or through an exclusive use easement.

**“Service and Assessment Plan”** means this Service and Assessment Plan prepared for the PID pursuant to the PID Act, as the same may be amended from time to time.

**“TIRZ No. 1”** means the Tax Increment Reinvestment Zone No. 1, City of Wharton, Texas.

**“TIRZ Credit”** means, for each Parcel, the prorated amount of TIRZ Revenues calculated pursuant to Section VI of this Service and Assessment Plan.

**“TIRZ Ordinance”** means an ordinance adopted by the City Council authorizing the use of TIRZ Revenues for project costs under the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, relating to the Authorized Improvements as provided for in the Tax Increment Reinvestment Zone No. 1 Project Plan and Financing Plan (including amendments or supplements thereto).

**“TIRZ Revenues”** mean, for each year, the amounts paid by the City from the TIRZ No. 1 tax increment fund pursuant to the TIRZ Ordinance to reduce an Annual Installment, as calculated each year by the Administrator in collaboration with the City, in accordance with Section VI of this Service and Assessment Plan.

**“Trust Indenture”** means an indenture of trust, ordinance or similar document setting forth the terms and other provisions relating to the Bonds, as modified, amended, and/or supplemented from time to time.

**“Trustee”** means the fiscal agent or trustee as specified in the Trust Indenture, including a substitute fiscal agent or trustee.

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## ***II. PROPERTY INCLUDED IN THE PID***

### **A. PROPERTY INCLUDED IN THE PID**

The PID is presently located within the City and contains approximately 55.48 acres of land. A map of the property within the PID is shown on Appendix A to this Service and Assessment Plan.

At completion, the PID is expected to consist of approximately 233 single family residential units, landscaping, and infrastructure necessary to provide roadways, drainage, and utilities to the PID.

The property within the PID is proposed to be developed as follows:

**Table II-A**  
**Proposed Development - PID**

<b>Proposed Development</b>	<b>Quantity</b>	<b>Measurement</b>
45 Ft Lot	95	Units
40 Ft Lot	138	Units
<b>Total</b>	<b>233</b>	<b>Units</b>

### **B. PROPERTY INCLUDED IN PHASE #1**

Phase #1 consists of approximately 18.69 acres and is projected to consist of 99 single family residential units, to be developed as Phase #1, as further described in Section III. A map of the property within Phase #1 and depicting the boundaries is shown in Appendix A.

**Table II-B**  
**Proposed Development – Phase #1**

<b>Proposed Development</b>	<b>Quantity</b>	<b>Measurement</b>
45 Ft Lot	51	Units
40 Ft Lot	48	Units
<b>Total</b>	<b>99</b>	<b>Units</b>

### **C. PROPERTY INCLUDED IN FUTURE PHASES**

The Future Phases consists of approximately 36.79 acres and is projected to consist of 124 single family residential units. A map of the property within Phase #1 and depicting the boundaries is shown in Appendix A.

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**Table II-C**  
**Proposed Development – Future Phases**

<b>Proposed Development</b>	<b>Quantity</b>	<b>Measurement</b>
45 Ft Lot	44	Units
40 Ft Lot	90	Units
<b>Total</b>	<b>134</b>	<b>Units</b>

As Future Phases are developed, Phased PID Bonds may be issued and/or related reimbursement agreements may be executed for each new phase. In connection with the issuance of each new Phased PID Bonds and/or execution of each reimbursement agreement, this Service and Assessment Plan will be updated to add additional details of each new Phase(s) as shown for Phase #1 in Section II.B. A map of the projected property within each Future Phase is shown in Appendix A. The Future Phases are shown for illustrative purposes only and are subject to adjustment. The current Parcels in the PID are shown on the Assessment Roll included as Appendix F.

The estimated number of units at the build-out of the PID is based on the land use approvals for the property, the anticipated subdivision of property in the PID, and the Developer's estimate of the highest and best use of the property within the PID.

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### ***III. DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS***

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#### **A. AUTHORIZED IMPROVEMENT OVERVIEW**

##### 372.003. Authorized Improvements

(a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction. A project may be undertaken in the municipality or county or the municipality's extraterritorial jurisdiction.

(b) A public improvement may include:

- (i) landscaping;
- (ii) erection of fountains, distinctive lighting, and signs;
- (iii) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of way;
- (iv) construction or improvement of pedestrian malls;
- (v) acquisition and installation of pieces of art;
- (vi) acquisition, construction, or improvement of libraries;
- (vii) acquisition, construction, or improvement of off-street parking facilities;
- (viii) acquisition, construction, improvement, or rerouting of mass transportation facilities;
- (ix) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;
- (x) the establishment or improvement of parks;
- (xi) projects similar to those listed in Subdivisions (i)-(x);
- (xii) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
- (xiii) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement;
- (xiv) payment of expenses incurred in the establishment, administration and operation of the district; and
- (xv) the development, rehabilitation, or expansion of affordable housing

After analyzing the public improvement projects authorized by the PID Act, the City has determined at this time to undertake only Authorized Improvements listed in Section III.B and shown in the opinion of probable costs and on the diagrams included as Appendix B for the benefit



of the Assessed Property. Any change to the list of Authorized Improvements will require the approval of the City and an update to this Service and Assessment Plan.

## **B. DESCRIPTIONS AND BUDGETED COSTS OF THE MAJOR IMPROVEMENTS**

The Major Improvements descriptions are presented below as provided by the project engineer. The Budgeted Costs of the Major Improvements are shown in Table III-A. The costs shown in Table III-A are estimates and may be revised in Annual Service Plan Updates, including such other improvements as deemed necessary to further improve the properties within the PID.

A description of the Major Improvements are as follows:

### Road Improvements

The road improvement portion of the Major Improvements consists of the construction of road and thoroughfare improvements, including related paving, drainage, curbs, gutters, sidewalks, retaining walls, signage, and traffic control devices, which benefit the Major Improvement Area. All roadway projects will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.

### Water Improvements

The water improvements portion of the Major Improvements consists of construction and installation of a looped water main network, waterlines, mains, pipes, valves and appurtenances, necessary for the portion of the water distribution system that will service the Major Improvement Area. The water improvements will be designed and constructed according to City standards and will be owned and operated by the City.

### Sanitary Sewer Improvements

The sanitary sewer improvement portion of the Major Improvements consists of construction and installation of pipes, service lines, manholes, encasements, and appurtenances necessary to provide sanitary sewer service to Major Improvement Area. The sanitary sewer improvements will be designed and constructed according to City standards and specifications and will be owned and operated by the City.

### Storm Drainage Improvements

The storm drainage improvement portion of the Major Improvements consists of detention ponds, HDPE or HP storm sewer pipes and outfall structures, reinforced concrete pipes, reinforced concrete boxes, multi-reinforced box culverts, and erosion control and storm water quality features, which benefit the Major Improvement Area. The storm drainage collection system improvements will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.

### Landscaping and Hardscaping

The landscaping improvement consists of landscaping, hardscaping, entry monumentation, walking trails, fountains, electrical services and lighting, and playground equipment and furnishings.

### Other Soft and Miscellaneous Costs

The soft and miscellaneous costs portion of the Major Improvements consists of engineering and surveying, project management fees, City inspection fees, project management fees, contingency, and other soft and miscellaneous costs.

**Table III-A**  
**Budgeted Costs – Major Improvements**

<b>Authorized Improvements</b>	<b>Total Major Improvements</b>	<b>Phase #1 Allocated Amount</b>	<b>Future Phases Allocated Amount</b>
Road improvements	\$200,000	\$85,353	\$114,647
Water improvements	\$229,645	\$98,004	\$131,641
Sanitary sewer improvements	\$215,867	\$92,124	\$123,743
Storm drainage improvements	\$1,310,308	\$559,190	\$751,117
Landscaping & hardscaping	\$800,000	\$341,410	\$458,590
Other soft and miscellaneous costs	\$1,747,211	\$745,645	\$1,001,567
<b>Total Authorized Improvements</b>	<b>\$4,503,031</b>	<b>\$1,921,726</b>	<b>\$2,581,305</b>

### **C. DESCRIPTIONS AND BUDGETED COSTS OF PHASE #1**

The Phase #1 Improvements descriptions are presented below as provided by the project engineer. The Budgeted Costs of the Phase #1 Improvements are shown in Table III-B. The costs shown in Table III-B are estimates and may be revised in Annual Service Plan Updates, including such other improvements as deemed necessary to further improve the properties within the PID.

A description of the Phase #1 Improvements are as follows:

#### Road Improvements

The road improvement portion of the Phase #1 Improvements consists of the construction of road and thoroughfare improvements, including related paving, drainage, curbs, gutters, sidewalks, retaining walls, signage, and traffic control devices, which benefit the Phase #1 Assessed Property. All roadway projects will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.

### Water Improvements

The water improvements portion of the Phase #1 Improvements consists of construction and installation of a looped water main network, waterlines, mains, pipes, valves and appurtenances, necessary for the portion of the water distribution system that will service the Phase #1 Assessed Property. The water improvements will be designed and constructed according to City standards and will be owned and operated by the City.

### Sanitary Sewer Improvements

The sanitary sewer improvement portion of the Phase #1 Improvements consists of construction and installation of pipes, service lines, manholes, encasements, and appurtenances necessary to provide sanitary sewer service to Phase #1 Assessed Property. The sanitary sewer improvements will be designed and constructed according to City standards and specifications and will be owned and operated by the City.

### Storm Drainage Improvements

The storm drainage improvement portion of the Phase #1 Improvements consists of detention ponds, HDPE or HP storm sewer pipes and outfall structures, reinforced concrete pipes, reinforced concrete boxes, multi-reinforced box culverts, and erosion control and storm water quality features, which benefit the Phase #1 Assessed Property. The storm drainage collection system improvements will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.

### Other Soft and Miscellaneous Costs

The soft and miscellaneous costs portion of the Major Improvements consists of engineering and surveying, project management fees, City inspection fees, project management fees, contingency, and other soft and miscellaneous costs.

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**Table III-B**  
**Budgeted Costs - Phase #1 Projects**

<b>Authorized Improvements</b>	<b>Phase #1's Proportional Share of Major Improvements</b>	<b>Phase #1 Improvements</b>	<b>Total Phase #1 Projects</b>
Road improvements	\$85,353	\$905,361	\$990,713
Water improvements	\$98,004	\$261,456	\$359,460
Sanitary sewer improvements	\$92,124	\$247,678	\$339,802
Storm drainage improvements	\$559,190	\$490,974	\$1,050,165
Landscaping & hardscaping	\$341,410	\$0	\$341,410
Other soft and miscellaneous costs	\$745,645	\$974,078	\$1,719,723
<b>Total Authorized Improvements</b>	<b>\$1,921,726</b>	<b>\$2,879,548</b>	<b>\$4,801,274</b>

Note: Costs provided by Wharton 55, LLC. The figures shown in Table III-B may be revised in Annual Service Plan Updates and may be reallocated between line items so long as the total Assessment relating to Phase #1 does not increase.

#### **D. FUTURE PHASES**

As Future Phases are developed and Phased PID Bonds are issued and/or related reimbursement agreements are executed, this SAP will be amended to identify the specific Future Phase Improvements that confer a special benefit to the property inside each Future Phase (e.g. a Table III-C will be added to show the costs for the specific Authorized Improvements financed within the specific Future Phase being developed.)

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## ***IV. SERVICE PLAN***

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### **A. PROJECTED SOURCES AND USES OF FUNDS**

The PID Act requires the service plan to cover a period of at least five years. The service plan is required to define the annual projected costs and indebtedness for the Authorized Improvements undertaken within the PID during the five year period. It is anticipated that the Major Improvements will be completed and accepted by the City in the 2nd quarter of 2024. It is anticipated that the Phase #1 Improvements will be completed and accepted by the City in the 2nd quarter of 2024. At some point after all or a portion of the Phase #1 Improvements are constructed, phase #2 will begin development, with each Future Phase to be subsequently developed corresponding to the Service and Assessment Plan to be updated with that development.

The Budgeted Costs for Phase #1 Projects and expenses incurred in the establishment, administration, and operation of the PID is \$4,866,274 as shown in Table IV-A. The service plan shall be reviewed and updated at least annually for the purpose of determining the annual budget for Administrative Expenses, updating the estimated Authorized Improvement costs, and updating the Assessment Roll(s). Any update to this Service and Assessment Plan is herein referred to as an “Annual Service Plan Update.”

As Future Phases are developed in connection with the issuance of Phased PID Bonds and/or the execution of a related reimbursement agreement, this Service and Assessment Plan will be amended (e.g. Table IV-A.2 will be added for Phase #2, etc.).

Table IV-A shows the projected sources and uses for Phase #1 Projects. Tables in this Section may be rounded to the nearest whole dollar.

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**Table IV-A**  
**Projected Sources and Uses – Phase #1 Projects**

<b>Sources of Funds</b>	<b>Total</b>
Par amount	\$4,333,000
Other funding sources	\$533,274
<b>Total Sources</b>	<b>\$4,866,274</b>
<b>Uses of Funds</b>	
<i>Major Improvements:</i>	
Road improvements	\$85,353
Water improvements	\$98,004
Sanitary sewer improvements	\$92,124
Storm drainage improvements	\$559,190
Landscaping & retaining walls	\$341,410
Other soft and miscellaneous costs	\$745,645
<i>Subtotal Major Improvements</i>	<i>\$1,921,726</i>
<i>Phase #1 Improvements:</i>	
Road improvements	\$905,361
Water improvements	\$261,456
Sanitary sewer improvements	\$247,678
Storm drainage improvements	\$490,974
Other soft and miscellaneous costs	\$974,078
<i>Subtotal Phase #1 Improvements</i>	<i>\$2,879,548</i>
<i>Other Assessment Related Costs:</i>	
Assessment levy fee and first year Administrative Expenses	\$65,000
<i>Subtotal</i>	<i>\$65,000</i>
<b>Total Uses</b>	<b>\$4,866,274</b>

Bonds may be issued in the future; and, to the extent provided by law, the proceeds from the Bonds will be used to reimburse certain Actual Costs paid by the Developer under the terms of the Phase #1 Reimbursement Agreement and/or to pay any unpaid Actual Costs of the Authorized Improvements required to be paid under the Phase #1 Reimbursement Agreement. In the event the financing capacity of the PID is reduced by appraisals, bond underwriting standards, interest rates, etc. the Assessments will be reduced to match the actual amount of PID Bonds to be issued for Phase #1.

As Future Phases are developed, additional Phased PID Bonds may be issued and/or related reimbursement agreements executed to finance the Authorized Improvements required for each new phase. Phased PID Bonds may also be issued and/or reimbursement agreements executed in one or more series.

## B. PROJECTED FIVE YEAR SERVICE PLAN

The annual projected costs and annual projected indebtedness is shown by Table IV-B. The annual projected costs and indebtedness is subject to revision, and each shall be updated in the Annual Service Plan Update to reflect any changes in the costs or indebtedness expected for each year.

**Table IV-B**  
**Annual Projected Costs and Annual Projected Indebtedness – Phase #1 Projects**

Year	Annual Projected Cost	Annual Projected Indebtedness	Other Funding Sources	Projected Phase #1 Annual Installments
2024	\$4,866,274	\$4,333,000	\$533,274	\$0
2025	\$0	\$0	\$0	\$359,079
2026	\$0	\$0	\$0	\$358,900
2027	\$0	\$0	\$0	\$358,541
2028	\$0	\$0	\$0	\$359,001
2029	\$0	\$0	\$0	\$359,217
2030	\$0	\$0	\$0	\$358,190
<b>Total</b>	<b>\$4,866,274</b>	<b>\$4,333,000</b>	<b>\$533,274</b>	<b>\$2,152,927</b>

<sup>1</sup>Administrative Expenses in year 2024 are funded by the Developer.

The annual projected costs shown in Table IV-B are the annual expenditures relating to the Phase #1 Projects shown in Table III-B, and the costs associated with setting up the PID. The difference between the total projected cost and the total projected indebtedness, if any, is the amount contributed by the Developer.

As Future Phases are developed, in association with issuing Phased PID Bonds and/ or execution of a reimbursement agreement for each Future Phase, a Table IV-C will be added to identify the Authorized Improvements to be financed by each new series of the Phased PID Bonds and/or reimbursement agreements and the projected indebtedness resulting from each additional series of the Phases PID Bonds and/or reimbursement agreements.

## C. PID ASSESSMENT NOTICE

The PID Act requires that this Service and Assessment Plan and each Annual Service Plan Update include a copy of the notice form required by Section 5.014 of the Texas Property Code. The “PID Assessment Notice” is attached hereto as Appendix E and may be updated in an Annual Service Plan Update.

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## ***V. ASSESSMENT PLAN***

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### **A. INTRODUCTION**

The PID Act requires the City Council to apportion the costs of the Authorized Improvements on the basis of special benefits conferred upon the property because of the Authorized Improvements. The PID Act provides that the costs of the Authorized Improvements may be assessed: (i) equally per front foot or square foot; (ii) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or (iii) in any other manner that results in imposing equal shares of the cost on property similarly benefited. The PID Act further provides that the governing body may establish by ordinance or order reasonable classifications and formulas for the apportionment of the cost between the municipality and the area to be assessed and the methods of assessing the special benefits for various classes of improvements.

The proposed Authorized Improvement program anticipates reimbursement agreements potentially followed by a series of bond financings that are intended to finance the public infrastructure required for the development. This financing will necessarily be undertaken in phases to coincide with the private investment and development of the Authorized Improvements. Following the execution of the Phase #1 Reimbursement Agreement subsequent financings may be issued and/or executed over the upcoming decade as the subsequent phases (Phase #2 and Phase #3) of the development are gradually constructed.

The purpose of this gradual levy of assessment and related execution of a reimbursement agreement and/or issuance of bonds in phases is to mirror the actual private development of the Authorized Improvements. The levy of Assessments and related execution of a reimbursement agreement and/or issuance of bonds are most prudently and efficiently utilized when directly coinciding with construction of public infrastructure needed for private development that is to occur once the infrastructure is completed; it is most effective to issue the Bonds and/or execute the reimbursement agreement when the infrastructure is needed, not before. Furthermore, there is no economic advantage, and several disadvantages, to issuing debt and encumbering property within the PID prior to the need for the Authorized Improvements.

Additionally, phased issuance of debt will maintain a prudent value to lien ("VtL") within the financing program. In order to maintain a prudent VtL, the initial issuance of bonds and/or execution of a reimbursement agreement for a specific set of Authorized Improvements may not fund the entire desired level of public infrastructure because the property value is not high enough to support the entire debt load at the VtL chosen for the development. In that case, the Developer will need to fund the additional infrastructure costs with cash at closing. This cash investment by the Developer for certain Authorized Improvements, if necessary, can be reimbursed by a subsequent parity lien bond financing, secured by the same Assessments, once the assessed property is partially or fully developed and the value has increased sufficiently to permit the issuance of the additional bonds in a prudent fashion.



For purposes of this Service and Assessment Plan, the City Council has determined that the costs of the Phase #1 Improvements shall be allocated as described below:

1. The Budgeted Costs of the Phase #1 Projects are allocated to the Phase #1 Assessed Property on the basis of Equivalent Units calculated using the average home price of each Lot Type once such property is developed, and that such method of allocation will result in the imposition of equal shares of the costs of the Authorized Improvements to Parcels similarly benefited.
2. The City Council has concluded that larger more expensive homes are likely to be built on the larger lots, and that larger more expensive homes are likely to make greater use of and receive greater benefit from the Authorized Improvements. In determining the relative values of Parcels, the City Council has taken in to consideration: (i) the type of development (i.e., residential, commercial, etc.), (ii) single-family lot sizes and the size of homes likely to be built on lots of different sizes, (iii) current and projected home prices provided by the Developer, (iv) the Authorized Improvements to be provided and the estimated costs, and (v) the ability of different property types to utilize and benefit from the improvements.
3. The Assessed Property is classified into different Lot Types as described in Appendix D based on the type and size of proposed development on each Parcel.
4. Equivalent Units are calculated for each Lot Type based on the relative value of each Lot Type.

At this time, it is impossible to determine with absolute certainty the amount of special benefit each Parcel within Future Phases will receive from the direct Authorized Improvements that will benefit each individual phase and that are to be financed with Phased PID Bonds. Therefore, Parcels will only be assessed for the special benefits conferred upon the Parcel at this time because of the Phase #1 Improvements.

In connection with the issuance of Phased PID Bonds and/or execution of related reimbursement agreements, this Service and Assessment Plan will be updated to reflect the special benefit each Parcel of Assessed Property within a Future Phase receives from the specific Authorized Improvements funded with those Phased PID Bonds issued and/or reimbursement agreement executed with respect to that Future Phase. Prior to assessing Parcels located within Future Phases in connection with issuance of Phased PID Bonds and/or reimbursement agreements executed, each owner of the Parcels to be assessed must acknowledge that the Authorized Improvements to be financed confer a special benefit on their Parcel and must consent to the imposition of the Assessments to pay for the Actual Costs of such Authorized Improvements.

This section of this Service and Assessment Plan currently (i) describes the special benefit received by each Parcel within the PID as a result of the Phase #1 Improvements, (ii) provides the basis and justification for the determination that this special benefit exceeds the amount of the Assessments to be levied on the Phase #1 Assessed Property for such improvements, and (iii) establishes the methodologies by which the City Council allocates and reallocates the special

benefit of the Phase #1 Improvements, to Parcels in a manner that results in equal shares of the Actual Costs of such improvements being apportioned to Parcels similarly benefited. The determination by the City Council of the assessment methodologies set forth below is the result of the discretionary exercise by the City Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners and developers of the Assessed Property.

As Future Phases are developed, in connection with the issuance of Phased PID Bonds and/or execution of reimbursement agreement this Service and Assessment Plan will be updated based on the City's determination of the assessment methodology for each Future Phase.

## **B. SPECIAL BENEFIT**

Assessed Property must receive a direct and special benefit from the Authorized Improvements, and this benefit must be equal to or greater than the amount of the Assessments. The Authorized Improvements are provided specifically for the benefit of the Assessed Property. The Authorized Improvements (more particularly described in line-item format in Appendix B to this Service and Assessment Plan) and the costs of issuance and payment of costs incurred in the establishment of the PID shown in Table IV-A are authorized by the PID Act. These Authorized Improvements are provided specifically for the benefit of the Assessed Property.

Each owner of the Assessed Property has acknowledged that the Authorized Improvements confer a special benefit on the Assessed Property and has consented to the imposition of the Assessments to pay for the Actual Costs associated therewith. Each of the owners is acting in its interest in consenting to this apportionment and levying of the Assessments because the special benefit conferred upon the Assessed Property by the Authorized Improvements exceeds the amount of the Assessments.

The Authorized Improvements provide a special benefit to the Assessed Property as a result of the close proximity of these improvements to the Assessed Property and the specific purpose of these improvements of providing infrastructure for the Assessed Property. In other words, the Assessed Property could not be used in the manner proposed without the construction of the Authorized Improvements. The Authorized Improvements are being provided specifically to meet the needs of the Assessed Property as required for the proposed use of the property.

The Assessments are being levied to provide the Authorized Improvements that are required for the highest and best use of the Assessed Property (i.e., the use of the property that is most valuable, including any costs associated with that use). Highest and best use can be defined as “the reasonably probable and legal use of property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.” (*Dictionary of Real Estate Appraisal, Third Edition.*) The Authorized Improvements are expected to be required for the proposed use of the Assessed Property to be physically possible, appropriately supported, financially feasible, and maximally productive.

The Developer has evaluated the potential use of the property and has determined that the highest and best use of the property is the use intended and the legal use for the property as described in

Section II of this Service and Assessment Plan. The use of the Assessed Property as described herein will require the construction of the Authorized Improvements.

The Assessments will repay financing that is on advantageous terms, as the Bonds issued to finance the Authorized Improvements will pay interest that is exempt from federal income tax. As a result, all other terms being equal (e.g., maturity, fixed vs. variable rate, credit quality), the tax- exempt bonds will have a lower interest rate than debt that is not tax-exempt. The Bonds also have a longer term than other available financings and may either be repaid or assumed by a buyer at the buyer's option. As a result of these advantageous terms, the financing provided by the PID is the most beneficial means of financing the Authorized Improvements.

Each owner of the Assessed Property will ratify, confirm, accept, agree to and approve: (i) the determinations and finding by the City Council as to the special benefits described in this Service and Assessment Plan and the Assessment Ordinance; (ii) the Service and Assessment Plan and the Assessment Ordinance, and (iii) the levying of Assessments on the Assessed Property. Use of the Assessed Property as described in this Service and Assessment Plan and as authorized by the PID Act requires that Authorized Improvements be acquired, constructed, installed, and/or improved. Funding the Actual Costs of the Authorized Improvements through the PID has been determined by the City Council to be the most beneficial means of doing so. As a result, the Authorized Improvements result in a special benefit to the Assessed Property, and this special benefit exceeds the amount of the Assessment. This conclusion is based on and supported by the evidence, information, and testimony provided to the City Council.

In summary, the Authorized Improvements result in a special benefit to the Assessed Property for the following reasons:

1. The Authorized Improvements are being provided specifically for the use of the Assessed Property, are necessary for the proposed best use of the property and provide a special benefit to the Assessed Property as a result;
2. The Developer has consented to the imposition of the Assessments for the purpose of providing the Authorized Improvements and the Developer is acting in its interest by consenting to this imposition;
3. The Authorized Improvements are required for the highest and best use of the property;
4. The highest and best use of the Assessed Property is the use of the Assessed Property that is most valuable (including any costs associated with the use of the Assessed Property);
5. Financing of the costs of the Authorized Improvement through the PID is determined to be the most beneficial means of providing for the Authorized Improvements; and,
6. As a result, the special benefits to the Assessed Property from the Authorized Improvements will be equal to or greater than the Assessments.

### C. ALLOCATION OF COSTS TO ASSESSED PROPERTY

The Major Improvements will provide a special benefit to all property in the PID. Accordingly, the Budgeted Costs of the Major Improvements must be allocated throughout all Assessed Property in the PID. Table V-A summarizes the allocation of Actual Costs for each type of Major Improvement to Phase #1 and the Future Phases. The Budgeted Costs shown in Table V-A are estimates and may be revised in Annual Service Plan Updates, but the related Assessment may not be increased.

Phase #1 is projected to contain 99 single family residential units, and the Major Improvement Area is projected to contain 233 single family residential units. As shown in Appendix D, the total projected Equivalent Units for Phase #1 is calculated as 97.08, and the total projected Equivalent Units for the Major Improvement Area is calculated as 227.48. As a result, 42.68 percent of the Budgeted Costs of the Major Improvements (i.e.  $97.08 \div 227.48 = 42.68\%$ ) are allocated to the Phase #1 Assessed Property, and 57.32 percent of the Budgeted Costs of the Major Improvements (i.e.,  $130.40 \div 227.48 = 57.32\%$ ) are allocated to Future Phases. One hundred percent (100%) of the Phase #1 Improvements are allocated to the Phase #1 Assessed Property. The Phase #1 Reimbursement Agreement will fund the Budgeted Costs of the Phase #1 Projects. One hundred percent (100%) of the Phase #1 Improvements are allocated to the Phase #1 Assessed Property.

**Table V-A**  
**Allocation of the Budgeted Costs of the Major Improvements**

<b>Authorized Improvement</b>	<b>Total</b>
Road Improvements	\$200,000
Water Improvements	\$229,645
Sanitary Sewer Improvements	\$215,867
Storm Drainage Improvements	\$1,310,308
Landscaping & Retaining Walls	\$800,000
Other Soft and Miscellaneous Costs	\$1,747,211
<b>Total Major Improvements<sup>1</sup></b>	<b>\$4,503,031</b>
<b>Phase #1</b>	
Projected total number of Equivalent Units	99
% of total Equivalent Units	42.68%
Proportionate Share of Costs	\$1,921,726
<b>Future Phases</b>	
Projected total number of Equivalent Units	134
% of total Equivalent Units	57.32%
Proportionate Share of Costs	\$2,581,305

<sup>1</sup>See Table III-A for details.

## **D. ASSESSMENT METHODOLOGY**

The costs of the Authorized Improvements may be assessed by the City Council against the Assessed Property so long as the special benefit conferred upon the Assessed Property by the Authorized Improvements equals or exceeds the Assessments. The costs of the Authorized Improvements may be assessed using any methodology that results in the imposition of equal shares of the Actual Costs on Assessed Property similarly benefited.

### *1. Assessment Methodology for Phase #1*

For purpose of this Service and Assessment Plan, the City Council has determined that the Budgeted Costs of the Phase #1 Projects to be financed with the Phase #1 Reimbursement Agreement, shall be allocated to the Phase #1 Assessed Property by spreading the entire Assessment across the Parcels based on the estimated number of Equivalent Units anticipated to be developed on each Parcel.

Based on the Budgeted Costs of the Phase #1 Projects, as set forth in Table III-B, the City Council has determined that the benefit to Phase #1 Assessed Property of the Phase #1 Projects is at least equal to the Assessments levied on the Phase #1 Assessed Property.

Upon subsequent divisions of any Parcel of Phase #1 Assessed Property, the Assessment applicable to it will then be apportioned pro rata based on the estimated Equivalent Units of each newly created Parcel. For residential Lots, when final residential building sites are platted, Assessments will be apportioned proportionately among each Parcel based on the ratio of the estimated Equivalent Units at the time residential Lots are platted to the total estimated Equivalent Units of all Lots in the platted Parcel, as determined by the Administrator and confirmed by the City Council.

The Assessment and Annual Installments for each Parcel or Lot located within Phase #1 is shown on the Phase #1 Assessment Roll, attached as Appendix F, and no Assessment shall be changed except as authorized by this Service and Assessment Plan or the PID Act.

### *2. Assessment Methodology for Future Phases*

When any given Future Phase is developed, and Phased PID Bonds for that Future Phase are to be issued and/or a reimbursement agreement, this Service and Assessment Plan will be amended to determine the assessment methodology that results in the imposition of equal shares of the Actual Costs on Assessed Property similarly benefited within that Phase.

## **E. ASSESSMENTS**

The Assessments for the Phase #1 Reimbursement Agreement are levied on each Parcel or Lot according to the Phase #1 Assessment Roll. The Annual Installments for the Phase #1 Reimbursement Agreement will be collected on the dates and in the amounts shown on the Phase

#1 Assessment Roll, subject to revisions made during an Annual Service Plan Update. Non-Benefited Property will not be subject to any Assessments.

See Appendix D for Assessment per unit, leverage, and estimated tax rate equivalent calculation details.

#### **F. ADMINISTRATIVE EXPENSES**

The cost of administering the PID and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of Assessment levied against the Parcel. The Administrative Expenses shall be collected as part of and in the same manner as Annual Installments in the amounts shown on the Assessment Roll, which may be revised based on actual costs incurred in Annual Service Plan Updates.

#### **G. ADDITIONAL INTEREST RESERVE**

Pursuant to the PID Act, the interest rate for Assessments may exceed the actual interest rate per annum paid on the related Bonds, **if and when Bonds are issued**, by no more than one half of one percent (0.50%) (the “Additional Interest”). The interest rate used to determine the Assessments is one half of one percent (0.50%) per annum higher than the actual rate paid on the Bonds, with the Additional Interest Component of the Annual Installments allocated to fund a reserve to be used for paying interest associated with a prepayment and to offset any possible delinquency related costs (the “Additional Interest Reserve”). The Additional Interest Reserve shall be funded until it reaches 5.50% of the outstanding Bonds unless otherwise stipulated in the Bond documents. Once the Additional Interest Reserve is funded in full, the City may allocate the Additional Interest Component of the Annual Installments as provided in the applicable Trust Indenture.

#### **H. TIRZ CREDIT**

Pursuant to the TIRZ Ordinance, the City has agreed to use TIRZ Revenues representing 50% of the City’s total increments generated from each Parcel to offset a portion of such Parcel’s Assessments (the “TIRZ Annual Credit Amount”). The Annual Installment for each Parcel shall be calculated by taking into consideration any TIRZ Annual Credit Amount applicable to the Parcel then on deposit in the TIRZ No. 1 tax increment fund. The TIRZ Annual Credit Amount applicable to each Parcel shall be calculated as described under Section VI of this Service and Assessment Plan.

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## ***VI. TERMS OF THE ASSESSMENTS***

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### **A. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN PHASE #1**

The Assessment and Annual Installments for each Assessed Property located within Phase #1 is shown on the Phase #1 Assessment Roll, attached as Appendix F, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

The Annual Installments shall be collected from Phase #1 Assessed Property in an amount sufficient to pay (i) principal and interest on the Phase #1 Reimbursement Agreement and (ii) to pay Administrative Expenses related to the PID. If and when phase # 1 Bonds are issued, the Annual Installments shall include Additional Interest as described in Section V.G. The Annual Installment for each Parcel shall be calculated by taking into consideration any available capitalized interest and TIRZ Annual Credit Amount applicable to the Parcel. The TIRZ Annual Credit Amount shall be calculated separately for each Parcel and such TIRZ Annual Credit Amount shall be applied on a Parcel-by-Parcel basis. As described in Section V.H., the TIRZ Revenues attributable to each Parcel of Assessed Property collected in any given year shall be used to calculate each Parcel's TIRZ Annual Credit Amount for such Parcel in the following year (i.e., TIRZ Revenues collected in 2025 shall be used to calculate the TIRZ Annual Credit Amount applicable to Annual Installments to be collected in 2026). TIRZ Annual Credit Amounts shall be calculated for those Parcels that are subject to Assessments in the PID. The number of units to be used for the calculation of the TIRZ Annual Credit Amount, if applicable, shall be determined by the Administrator based on the information available to the Administrator at the time of such calculations.

### **B. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN FUTURE PHASES**

As Future Phases are developed, this Service and Assessment Plan will be amended to determine the Assessment and Annual Installments for each Assessed Property located within Future Phases (e.g., an Appendix will be added as the Assessment Roll for phase #2, etc.). The Assessments shall not exceed the benefit received by the Assessed Property.

### **C. REALLOCATION OF ASSESSMENTS**

#### **1. Subdivision**

Upon the subdivision of any Parcel, the Assessment for the Parcel prior to the subdivision shall be reallocated among the new subdivided Parcels according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:



- A = the Assessment for each new subdivided Parcel
- B = the Assessment for the Parcel prior to subdivision
- C = the estimated number of Equivalent Units to be built on each new subdivided Parcel
- D = the sum of the estimated number of Equivalent Units to be built on all of the new subdivided Parcels

The calculation of the estimated number of Equivalent Units to be built on a Parcel shall be performed by the Administrator and confirmed by the City Council based on the information available regarding the use of the Parcel. The estimate as confirmed shall be conclusive. The number of Equivalent Units to be built on a Parcel may be estimated by net land area and reasonable density ratios.

The sum of the Assessments for all newly subdivided Parcels shall equal the Assessment for the Parcel prior to subdivision. The calculation shall be made separately for each newly subdivided Parcel. The reallocation of an Assessment for a Parcel that is a homestead under Texas law may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the subdivision of the Parcels. Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the City Council.

## **2. Consolidation**

Upon the consolidation of two or more Parcels, the Assessment for the consolidated Parcel shall be the sum of the Assessments for the Parcels prior to consolidation. The reallocation of an Assessment for a Parcel that is a homestead under Texas law may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the consolidation of the Parcels. Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the City Council.

## **D. MANDATORY PREPAYMENT OF ASSESSMENTS**

1. If a Parcel subject to Assessments is transferred to a party that is exempt from the payment of the Assessment under applicable law, or if an owner causes a Parcel subject to Assessments to become Non-Benefited Property, the owner of such Parcel shall pay to the City the full amount of the principal portion of the Assessment on such Parcel, plus all Prepayment Costs, prior to any such transfer or act.

2. If at any time the Assessment per Unit on a Parcel exceeds the applicable Phase #1 Maximum Assessment per Unit calculated in this Service and Assessment Plan as a result of any changes in land use, subdivision, consolidation or reallocation of the Assessment authorized by this Service and Assessment Plan and initiated by the owner of the Parcel, then such owner shall pay to the City prior to the recordation of the document subdividing the Parcel the amount calculated by the Administrator by which the Assessment per Unit for the Parcel exceeds the applicable Phase #1 Maximum Assessment per Unit calculated in this Service and Assessment Plan.



3. The payments required above shall be treated the same as any Assessment that is due and owing under the PID Act, the Assessment Ordinance, and this Service and Assessment Plan, including the same lien priority, penalties, procedures, and foreclosure specified by the PID Act.

#### **E. REDUCTION OF ASSESSMENTS**

1. If after all Authorized Improvements to be funded with a series of Bonds and/or the Phase #1 Reimbursement Agreement, respectively, have been completed and Actual Costs for such Authorized Improvements are less than the Budgeted Costs of the Authorized Improvements used to calculate the Assessments securing such Bonds and/or the Phase #1 Reimbursement Agreement, respectively, resulting in excess Bond proceeds being available to redeem Bonds and/or a need to reduce the obligation under the Phase #1 Reimbursement Agreement, as the case may be, and such excess Bond proceeds shall be applied to redeem Bonds as provided in the Indenture, or to reduce the obligation under the Phase #1 Reimbursement Agreement, as provided in the Phase #1 Reimbursement Agreement, then the Assessment securing such Bonds and/or Phase #1 Reimbursement Agreement, for each Parcel of Assessed Property shall be reduced by the City Council pro rata such that the sum of the resulting reduced Assessments for all Assessed Properties equals the actual reduced Actual Costs. The Assessments shall not be reduced to an amount less than the related outstanding Bonds and/or obligation under the Phase #1 Reimbursement Agreement, respectively. If all of the Authorized Improvements are not completed, the City may reduce the Assessments in another method if it determines such method would better reflect the benefit received by the Parcels from the Authorized Improvements completed.

2. If all the Authorized Improvements are not undertaken, resulting in excess Bond proceeds being available to redeem Bonds and/or a need to reduce the obligations under the Phase #1 Reimbursement Agreement, respectively, then the Assessments and Annual Installments for each Parcel shall be appropriately reduced by the City Council to reflect only the amounts required to repay the Bonds and/or repay obligations under the Phase #1 Reimbursement Agreement, respectively, including interest on the Bonds and Administrative Expenses, and, in such event, any such excess bond proceeds shall be applied to redeem Bonds. The City Council may reduce the Assessments and the Annual Installments for each Parcel (i) in an amount that represents the Authorized Improvements provided for each Parcel or (ii) by an equal percentage calculated based on number of units, if determined by the City Council to be the most fair and practical means of reducing the Assessments for each Parcel such that the sum of the resulting reduced Assessments equals the amount required to repay the Bonds and/or repay obligations under the Phase #1 Reimbursement Agreement, respectively, including interest on the Bonds thereon and Administrative Expenses. The principal portion of the Assessment for each Parcel shall be reduced pro rata to the reduction in the Assessments for each Parcel such that the sum of the resulting reduced principal portion of the Bonds and/or obligations under the Phase #1 Reimbursement Agreement, respectively, is equal to the outstanding principal amount of the Bonds and/or the amounts outstanding under the Phase #1 Reimbursement Agreement, respectively.

## **F. PAYMENT OF ASSESSMENTS**

### **1. Payment in Full**

- (a) The Assessment for any Parcel may be paid in full at any time. Such payment shall include all Prepayment Costs. If prepayment in full will result in redemption of Bonds, the payment amount shall be reduced by the amount, if any, of interest through the date of redemption of Bonds and reserve funds applied to the redemption under the Trust Indenture, net of any other costs applicable to the redemption of Bonds.
- (b) If an Annual Installment has been billed prior to payment in full of an Assessment, the Annual Installment shall be due and payable and shall be credited against the payment-in-full amount.
- (c) Upon payment in full of the Assessment and all Prepayment Costs, the City shall deposit the payment in accordance with the Trust Indenture; whereupon, the Assessment shall be reduced to zero, and the owner's obligation to pay the Assessment and Annual Installments thereof shall automatically terminate.
- (d) At the option of the owner, the Assessment on any Parcel plus Prepayment Costs may be paid in part in an amount sufficient to allow for a convenient redemption of Bonds as determined by the Administrator. Upon the payment of such amounts for a Parcel, the Assessment for the Parcel shall be reduced, the Assessment Roll shall be updated to reflect such partial payment, and the obligation to pay the Annual Installment for such Parcel shall be reduced to the extent the partial payment is made.

### **2. Payment in Annual Installments**

The PID Act provides that an Assessment for a Parcel may be paid in full at any time. If not paid in full, the PID Act authorizes the Assessment to be paid in installments and additionally allows the City to collect interest, administrative expenses and other authorized charges in installments. An Assessment for a Parcel that is not paid in full will be collected in Annual Installments each year in the amounts shown on the Assessment Rolls, as updated as provided for herein, which include interest, Administrative Expenses, and payments required for the Additional Interest Reserve. Payment of the Annual Installments shall commence with tax bills mailed after the initial issuance of Bonds.

#### Phase #1

Each Assessment levied against the Assessed Property for the Authorized Improvements shall be paid with an interest rate of no more than the actual interest rate paid on the Phase #1 Reimbursement Agreement. Interest on the Phase #1 Reimbursement Agreement shall be paid based on an interest rate of 6.36% per annum for years 1 through 5 and 6.36% per annum following the fifth Annual Installment. The interest on the Phase #1 Reimbursement Agreement shall be paid at a rate not to exceed five hundred basis points (5.00%) above the highest average index rate for tax-exempt bond reported in a daily or weekly bond index approved by the City and reported

in the month prior to the establishment of the Assessments securing such portion of the Phase #1 Reimbursement Agreement and continuing for a period of five years from such date. Such rate shall then adjust and shall not exceed two hundred basis points (2.00%) above the bond index rate described above and shall continue until the Assessments are paid in full. The index approved by the City is the *Bond Buyer Index* for which the highest average rate during the previous thirty days prior to the levy of Assessments on the Assessed Property securing the Phase #1 Reimbursement Agreement was 4.36%. The City has determined that the Phase #1 Reimbursement Agreement shall bear interest at the interest rate of 6.36% per annum for years 1 through 5 and 6.36% per annum following the fifth Annual Installment, which rates are equal to or less than the initial maximum allowable rate of interest of 6.36% for years 1 through 5 and equal to the maximum allowable rate of interest following the fifth Annual Installment, which would be 6.36%. Furthermore, the Annual Installments of the Assessments levied against the Assessed Property for the Authorized Improvements may not exceed the amounts shown on the Phase #1 Assessment Roll. The Phase #1 Assessment Roll is shown as Appendix F.

### Reduction of Assessments

The Annual Installments shall be reduced to equal the actual costs of repaying the Phase #1 Reimbursement Agreement, the Bonds, if any, and actual Administrative Expenses (as provided for in the definition of such term), taking into consideration any other available funds for these costs, such as interest income on account balances.

The City reserves and shall have the right and option to refund the Bonds, if any, and/or issue additional Bonds in accordance with Section 372.027 of the PID Act. In the event of such refunding, the Administrator shall recalculate the Annual Installments, and if necessary, may adjust, or decrease, the amount of the Annual Installments so that total Annual Installments of Assessments will be produced in annual amounts that are required to pay the refunding bonds when due and payable as required by and established in the ordinance and/or the indenture authorizing and securing the refunding bonds, and such refunding bonds shall constitute Bonds for purposes of this Service and Assessment Plan.

## **G. COLLECTION OF ANNUAL INSTALLMENTS**

No less frequently than annually, the Administrator shall prepare, and the City Council shall consider, an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include updated Assessment Rolls and a calculation of the Annual Installment for each Parcel. Administrative Expenses shall be allocated among Parcels in proportion to the amount of the Annual Installments for the Parcels. Each Annual Installment shall be reduced by any credits applied under the applicable Trust Indenture, such as capitalized interest, interest earnings on any account balances, and any other funds available to the Trustee for such purpose, including any existing deposits for a prepayment reserve and any applicable TIRZ Credits. Annual Installments shall be collected by the City in the same manner and at the same time as ad valorem taxes and shall be subject to the same penalties, procedures, and foreclosure sale in case of delinquencies as are provided for ad valorem taxes of the City. The City Council may provide for other means of collecting the Annual Installments to

the extent permitted under the PID Act. The Assessments shall have lien priority as specified in the PID Act.

Each Annual Installment, including the interest on the unpaid amount of an Assessment, shall be calculated as of September 1 and updated annually. Each Annual Installment together with interest thereon shall be delinquent if not paid prior to February 1 of the following year.

The collection of the first Annual Installment for a Phase #1 Lot or Parcel shall commence upon the earlier of: (i) with tax bills sent the first October after issuance of a series of Bonds, or (ii) September 1, 2025.

Any sale of property for nonpayment of the Annual Installments shall be subject to the lien established for the remaining unpaid Annual Installments against such property and such property may again be sold at a judicial foreclosure sale if the purchaser thereof fails to make timely payment of the non-delinquent Annual Installments against such property as they become due and payable.

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## ***VII. THE ASSESSMENT ROLL***

### **A. PHASE #1 ASSESSMENT ROLL**

The City Council has evaluated each Parcel in Phase #1 (based on numerous factors such as the applicable zoning for developable area, the use of proposed Homeowner Association Property, the Public Property, the types of public improvements, and other development factors deemed relevant by the City Council) to determine the amount of Assessed Property within Phase #1.

The Phase #1 Assessed Property has been assessed for the special benefits conferred upon the property resulting from the Phase #1 Projects. Table VII-A summarizes the \$4,866,274 in special benefit received by the Phase #1 Assessed Property from the Phase #1 Projects, a portion of the costs of the PID formation. The par amount of the Phase #1 Reimbursement Agreement is \$4,333,000, which is less than or equal to the benefit received by the Phase #1 Assessed Property. Accordingly, the total Assessment to be applied to all the Phase #1 Assessed Property is \$4,333,000 plus annual Administrative Expenses. The Assessment for each Phase #1 Assessed Property is calculated based on the allocation methodologies described in Section V.D. The Phase #1 Assessment Roll is attached hereto as Appendix F.

**Table VII-A**  
**Phase #1**  
**Special Benefit Summary**

<b>Special Benefit</b>	<b>Total Cost</b>
<b>Total Phase #1 Projects<sup>1</sup></b>	<b>\$4,801,274</b>
<b>Other Assessment Related Costs</b>	
Assessment levy fee and first year Administrative Expenses	\$65,000
<b>Total Special Benefit</b>	<b>\$4,866,274</b>
<b>Special Benefit:</b>	
Total Special Benefit	\$4,866,274
Projected Assessment	\$4,333,000
<b>Excess Benefit</b>	<b>\$533,274</b>

<sup>1</sup> See Table III-B for details.

### **B. FUTURE PHASES ASSESSMENT ROLL**

As Future Phases are developed, this SAP will be amended to determine the Assessment for each Parcel or Lot located within such Future Phase (e.g. an appendix will be added as the Assessment Roll for Future Phase).

### C. ANNUAL ASSESSMENT ROLL UPDATES

The Administrator shall prepare, and shall submit to the City Council for approval, annual updates to the Phase #1 Assessment Roll in conjunction with the Annual Service Plan Update to reflect the following matters, together with any other changes helpful to the Administrator or the City and permitted by the PID Act: (i) the identification of each Parcel (ii) the Assessment for each Parcel of Assessed Property, including any adjustments authorized by this Service and Assessment Plan or in the PID Act; (iii) the Annual Installment for the Assessed Property for the year (if the Assessment is payable in installments); and (iv) payments of the Assessment, if any, as provided by Section VI.G of this Service and Assessment Plan.

Once the Bonds are issued, the Assessment Rolls shall be updated, which update may be done in the next Annual Service Plan Update, to reflect any changes resulting from the issuance of the Bonds. This update shall reflect the actual interest on the Bonds on which the Annual Installments shall be paid, any reduction in the Assessments, and any revisions in the Actual Costs to be funded by the Bonds and Developer funds.

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## ***VIII. MISCELLANEOUS PROVISIONS***

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### **A. ADMINISTRATIVE REVIEW**

The City may elect to designate a third party to serve as Administrator. The City shall notify Developer in writing at least thirty (30) days in advance before appointing a third party Administrator.

To the extent consistent with the PID Act, an owner of an Assessed Parcel claiming that a calculation error has been made in the Assessment Roll(s), including the calculation of the Annual Installment, shall send a written notice describing the error to the City not later than thirty (30) days after the date any amount which is alleged to be incorrect is due prior to seeking any other remedy. The Administrator shall promptly review the notice, and if necessary, meet with the Assessed Parcel owner, consider written and oral evidence regarding the alleged error and decide whether, in fact, such a calculation error occurred.

If the Administrator determines that a calculation error has been made and the Assessment Roll should be modified or changed in favor of the Assessed Parcel owner, such change or modification shall be presented to the City Council for approval to the extent permitted by the PID Act. A cash refund may not be made for any amount previously paid by the Assessed Parcel owner (except for the final year during which the Annual Installment shall be collected or if it is determined there are sufficient funds to meet the expenses of the PID for the current year), but an adjustment may be made in the amount of the Annual Installment to be paid in the following year. The decision of the Administrator regarding a calculation error relating to the Assessment Roll may be appealed to the City Council. Any amendments made to the Assessment Roll(s) pursuant to calculation errors shall be made pursuant to the PID Act.

The decision of the Administrator, or if such decision is appealed to the City Council, the decision of the City Council shall be conclusive as long as there is a reasonable basis for such determination. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to any other appeal or legal action by such owner.

### **B. TERMINATION OF ASSESSMENTS**

Each Assessment shall be extinguished on the date the Assessment is paid in full, including unpaid Annual Installments and Delinquent Collection Costs, if any. After the extinguishment of an Assessment and the collection of any delinquent Annual Installments and Delinquent Collection Costs, the City shall provide the owner of the affected Parcel a recordable “Notice of the PID Assessment Termination”.

### **C. AMENDMENTS**

Amendments to the Service and Assessment Plan can be made as permitted or required by the PID Act and under Texas law.

The City Council reserves the right to the extent permitted by the PID Act to amend this Service and Assessment Plan without notice under the PID Act and without notice to property owners of Parcels:(i) to correct mistakes and clerical errors; (ii) to clarify ambiguities; and (iii) to provide procedures for the collection and enforcement of Assessments, Prepayment Costs, Collection Costs, and other charges imposed by the Service and Assessment Plan.

#### **D. ADMINISTRATION AND INTERPRETATION OF PROVISIONS**

The City Council shall administer the PID, this Service and Assessment Plan, and all Annual Service Plan Updates consistent with the PID Act and shall make all interpretations and determinations related to the application of this Service and Assessment Plan unless stated otherwise herein or in the Trust Indenture, such determination shall be conclusive.

#### **E. SEVERABILITY**

If any provision, section, subsection, sentence, clause or phrase of this Service and Assessment Plan or the application of same to an Assessed Parcel or any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Service and Assessment Plan or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Service and Assessment Plan that no part hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other part hereof, and all provisions of this Service and Assessment Plan are declared to be severable for that purpose.

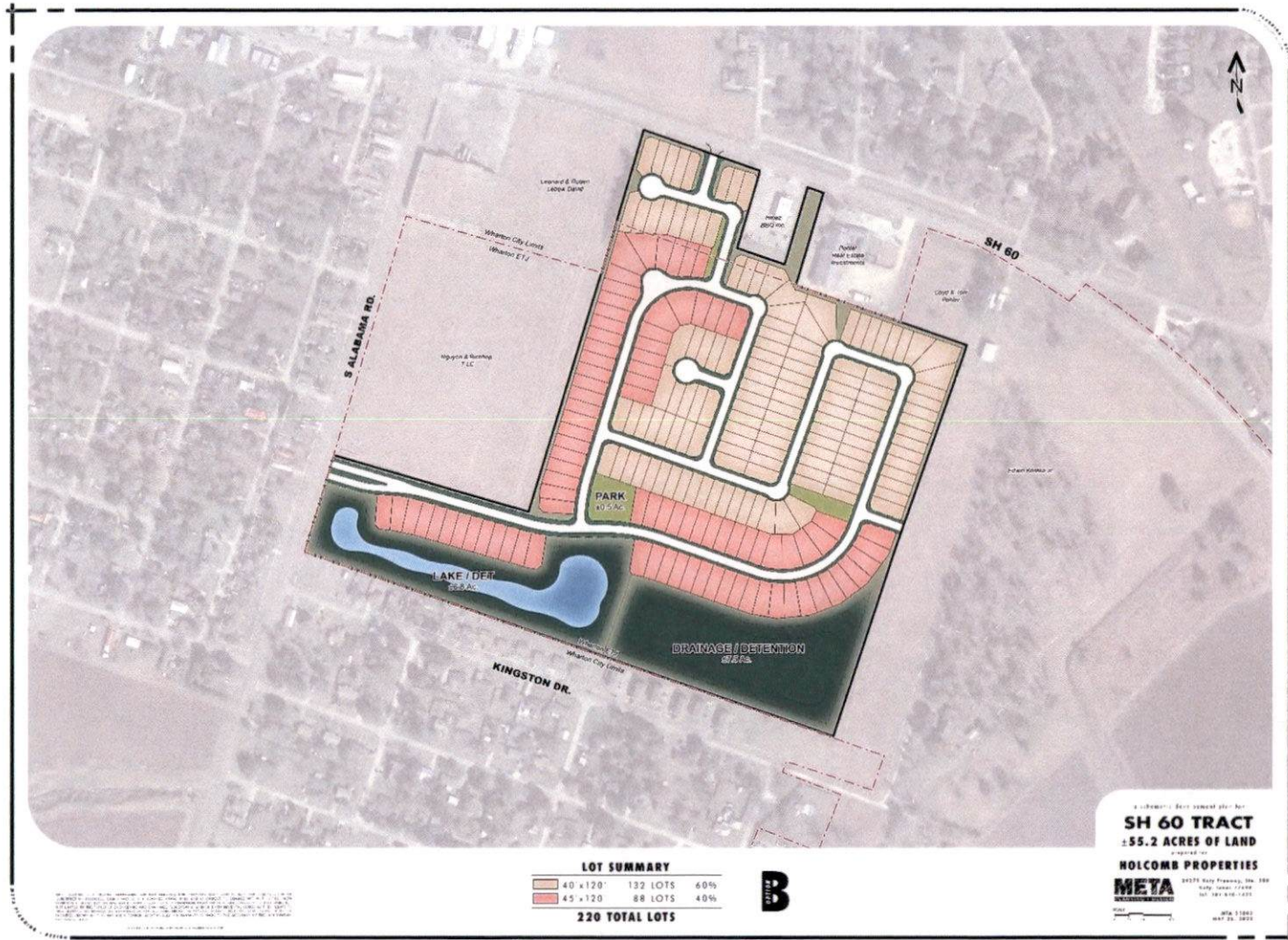
If any provision of this Service and Assessment Plan is determined by a court to be unenforceable, the unenforceable provision shall be deleted from this Service and Assessment Plan and the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the City.

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**APPENDIX A**  
**PID MAP**

Exhibit C  
General Plan



## Exhibit A

### The Metes and Bounds Description of the Property

#### Tract 1:

***51.6733 acres of land in the Randal Jones 1/2 League, Abstract No. 36,  
Partially in the City of Wharton, Wharton County, Texas***

A FIELD NOTE DESCRIPTION of a 51.6733 acre tract of land in the Randal Jones 1/2 League, Abstract No. 36, partially in the City of Wharton, Wharton County, Texas; said 51.6733 acre tract being that same called 51.4217 acre tract of land conveyed to Gordon Franklin, Trustee, as recorded in Volume 249, Page 233, of the Wharton County Deed Records; said tract being more particularly described by metes-and-bounds as follows with the bearings being based on Texas State Plane Coordinate System, South Central Zone (NAD83) per GPS Observations using National Geodetic Survey Continuously Operating Reference Stations:

BEGINNING at a 1-inch iron spike found in the southeast right-of-way line of F.M. 1299 (South Alabama Road) (called 80 feet wide), as recorded in Volume 802, Page 787 of the Wharton County Deed Records for the north corner of Briar Grove Trailer Park, Lot One (1), Briar Grove Addition, Sec. 2, according to the map or plat recorded in Slide No. 120A of the Wharton County Plat Records and for a west corner of this tract;

THENCE, North 16° 52' 37" East - 364.19 feet (called North 20° 14' 18" East - 364.10 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southeast right-of-way line of said South Alabama Road to a 1/2-inch iron rod found for the west corner of a called 15.00 acre tract of land conveyed to Bichhop T. Le, as recorded in Volume 794, Page 547 of the Wharton County Deed Records and for a north corner of this tract;

THENCE, South 73° 40' 17" East - 727.16 feet (called South 70° 16' East - 727.10 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southwest line of said 15.00 acre tract to a 5/8-inch iron rod with cap found for the south corner of said 15.00 acre tract and for an interior corner of this tract;

THENCE, North 16° 48' 36" East - 898.55 feet (called North 20° 14' 17" East - 898.64 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southeast line of said 15.00 acre tract to a 1/2-inch iron rod found for the east corner of said 15.00 acre tract, for the south corner of a called 5.698 acre tract of land conveyed to Robert L. Lebow, Leonard C. Lebow and David I. Lebow, as recorded in Volume 824, Page 719 of the Wharton County Deed Records, and for an angle point of this tract;

THENCE, North 16° 21' 39" East - 188.68 feet (called North 19° 44' East - 188.72 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southeast line of said 5.698 acre tract to a bent 5/8-inch iron rod found for the west corner of a called 5.00 acre tract of land conveyed to Gordon Franklin, Trustee, as recorded in Volume 1201, Page 830 of the Wharton County Deed Records and as described in Volume 519, Page 542 of the Wharton County Deed

Records and for a north corner of this tract; from which a bent 1/2-inch iron rod found in the southwest right-of-way line of State Highway 60 (Milam Street) (width varies - 100 feet wide at this point) for the east corner of said 5.698 acre tract and for the north corner of said 5.00 acre tract bears North 16° 21' 39" East – 350.86 feet (called North 19° 49' 30" East – 350 feet per Volume 519, Page 542 of the Wharton County Deed Records);

THENCE, South 70° 30' 11" East - 623.01 feet (called South 67° 05' 30" East – 623.00 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 67° 05' 15" East – 623.19 feet per Volume 519, Page 542 of the Wharton County Deed Records) with the southwest line said 5.00 acre tract to a 1/2-inch iron rod found for the south corner of said 5.00 acre tract and for an interior corner of this tract;

THENCE, North 16° 18' 47" East (called North 19° 49' 30" East per Volume 249, Page 233 of the Wharton County Deed Records) with southeast line of said 5.00 acre tract, at a distance of 60.09 feet pass a point for the south corner of a called 0.413 acre tract of land conveyed to Hinze Bar-B-Que, Inc., as recorded in Volume 1006, Page 92 of the Wharton County Deed Records, and continuing with the southeast line of said 0.413 acre tract and with the southeast line of a called 0.784 acre tract of land conveyed to Hinze Bar-B-Que, Inc., as recorded in Volume 1006, Page 92 of the Wharton County Deed Records for a total distance of 350.60 feet (called 350.00 feet per Volume 249, Page 233 of the Wharton County Deed Records) to a 1/2-inch iron rod found in the southwest right-of-way line of said State Highway 60 for the east corner of said 0.784 acre tract and for a north corner of this tract; from which a 1/2-inch iron rod found for the north corner of said 0.784 acre tract bears North 70° 28' 39" West – 180.00 feet;

THENCE, South 70° 28' 39" East – 59.77 feet (called South 66° 50' 27" East – 59.77 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southwest right-of-way line of said State Highway 60 to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for the north corner of a called 0.9918 acre tract of land conveyed to Pohler Real Estate Investments, LLC, as recorded in Volume 1120, Page 404 of the Wharton County Deed Records and for an east corner of this tract; from which a 1/2-inch iron rod found for the east corner of a 1.000 acre tract of land conveyed to Pohler Real Estate Investments, LLC, as recorded in Volume 1120, Page 404 of the Wharton County Deed Records bears South 70° 28' 39" East – 251.03 feet;

THENCE, South 16° 16' 24" West (called South 19° 49' 30" West per Volume 249, Page 233 of the Wharton County Deed Records) with the northwest line of said 0.9918 acre tract, at a distance of 208.41 feet pass a 1/2-inch iron rod spinner found for the west corner of said 0.9918 acre tract and for the north corner of said 1.000 acre tract and continuing with the northwest line of said 1.000 acre tract for a total distance of 347.67 feet (called 347.55 feet per Volume 249, Page 233 of the Wharton County Deed Records) to a 1/2-inch iron rod found for the west corner of said 1.000 acre tract and for an interior corner of this tract;

THENCE, South 70° 26' 42" East - 250.01 feet (called South 67° 09' 08" East – 249.82 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 67° 05' 15" East – 250.00 feet per Volume 1120, Page 404 of the Wharton County Deed Records) with the southwest line of said 1.000 acre tract to a 1/2-inch iron rod found for the south corner of said 1.000 acre tract, for the west corner of Lot 1, Subdivision of Lot 24M, according to the map or plat

recorded in Slide No. 3030 of the Wharton County Plat Records, and for an angle point of this tract; from which a 1/2-inch iron rod found in the southwest right-of-way line of said State Highway 60 (width varies at this point) bears North 16° 26' 37" East – 347.76 feet (called North 19° 49' 30" East – 347.55 feet per Volume 1120, Page 404 of the Wharton County Deed Records);

THENCE, South 70° 25' 24" East - 398.87 feet (called South 67° 01' 08" East – 398.87 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 70° 26' 03" East – 398.92 feet per Slide No. 3030 of the Wharton County Plat Records) with the southwest line of said Subdivision of Lot 24M to a 5/8-inch iron rod with cap stamped "McKim & Creed" set in the northwest line of a called 1.83 acre tract of land conveyed to Edwin W. Kostka, as recorded in Volume 310, Page 229 of the Wharton County Deed Records for the south corner of Lot 2 of said Subdivision of Lot 24M and for an east corner of this tract; from which a 1/2-inch iron rod with cap stamped "RPLS 5319" found in the southwest right-of-way line of said State Highway 60 for the east corner of said Lot 2 bears North 16° 26' 03" East – 313.24 feet (called North 16° 26' 39" East – 312.97 feet per Slide No. 3030 of the Wharton County Plat Records); also from which a t-post inside pvc pipe bears North 46° 04' 52" West – 0.33 feet;

THENCE, South 16° 26' 03" West - 33.43 feet (called South 20° 08' 12" West – 33.43 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the northwest line of said 1.83 tract to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for the west corner of said 1.83 tract, for the north corner of a called 8.72 acre tract of land (Tract 3) conveyed to Edwin W. Kostka, Jr., as recorded in Volume 210, Page 638 of the Wharton County Deed Records and for an angle point of this tract; from which a 1-1/2-inch iron pipe found for the south corner of said 1.83 acre tract bears South 70° 16' 36" East – 228.92 feet (called South 66° 59' East – 228.33 feet per Volume 310, Page 229 of the Wharton County Deed Records); also from which a 1/2-inch iron rod found for the east corner of said 8.72 acre tract bears South 70° 16' 36" East – 258.77 feet (called South 66° 59' East – 258.33 feet per Volume 210, Page 638 of the Wharton County Deed Records);

THENCE, South 18° 14' 30" West - 740.07 feet (called South 22° 46' 36" West – 739.79 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 21° 39' 08" West – 737.78 feet per Volume 210, Page 638 of the Wharton County Deed Records) with the northwest line of said 8.72 acre tract to a t-post inside pvc pipe found for an angle point of said 8.72 acre tract and for an angle point of this tract;

THENCE, South 19° 23' 26" West - 716.72 feet (called South 21° 36' 12" West – 716.75 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 22° 53' West – 716.75 feet per Volume 210, Page 638 of the Wharton County Deed Records) with the northwest line of said 8.72 acre tract to a t-post inside pvc pipe found in the northeast line of Block 1, Briar Grove Addition, Section 4, according to the map or plat recorded in Page 47A of the Wharton County Plat Records (previously platted as Briar Grove Addition Section 3, according to the map or plat recorded in Slide No. 38A of the Wharton County Plat Records, revoked per Volume 558, Page 166 of the Wharton County Deed Records) for the west corner of said 8.72 acre tract and for the south corner of this tract;

THENCE, North 70° 33' 43" West (called North 67° 09' 26" West per Volume 249, Page 233 of the Wharton County Deed Records) with the northeast line for said Briar Grove Addition, Section 4, with the northeast line of Re-plat of Briar Grove Addition, Section. 3, according to the map or plat recorded in Page No. 45A of the Wharton County Plat Records, and with the northeast line of Briar Grove Addition, Section 2, according to the map or plat recorded in Volume 1, Page 72 of the Wharton County Plat Records, at a distance of 1,871.31 feet pass a 1/2-inch iron rod found for the north corner of Lot 2 of said Briar Grove Addition, Section 2, and for the east corner of said Briar Grove Trailer Park, Lot One (1), Briar Grove Addition, Sec. 2 and continuing with the northeast line of said Briar Grove Trailer Park, Lot One (1), Briar Grove Addition, Sec. 2, for a total distance of 2008.02 feet (called 2,008.10 feet per Volume 249, Page 233 of the Wharton County Deed Records) to the POINT OF BEGINNING and containing 51.6733 acres of land.

**Tract 2:*****3.8067 acres of land in the Randal Jones 1/2 League, Abstract No. 36,  
City of Wharton, Wharton County, Texas***

A FIELD NOTE DESCRIPTION of a 3.8067 acre tract of land in the Randal Jones 1/2 League, Abstract No. 36, City of Wharton, Wharton County, Texas; said 3.8067 acre tract being the remainder of a 5.00 acre tract of land conveyed to Gordon Franklin, Trustee, as recorded in Volume 1201, Page 830 of the Wharton County Deed Records and as described in Volume 519, Page 542 of the Wharton County Deed Records; said tract being more particularly described by metes-and-bounds as follows with the bearings being based on Texas State Plane Coordinate System, South Central Zone (NAD83) per GPS Observations using National Geodetic Survey Continuously Operating Reference Stations:

BEGINNING at a 1/2-inch iron rod found in the southwest right-of-way line of State Highway 60 (Milam Street) (width varies - 100 feet wide at this point) for the east corner of a called 5.698 acre tract of land conveyed to Robert L. Lebow, Leonard C. Lebow, and David I. Lebow, as recorded in Volume 824, Page 719 of the Wharton County Deed Records, for the north corner of said 5.00 acre tract, and for the north corner of this tract;

THENCE, South 70° 28' 39" East - 442.73 feet with the southwest right-of-way line of said State Highway 60 to a 1/2-inch iron rod found for the north corner of a called 0.784 acre tract of land conveyed to Hinze Bar-B-Que, Inc., as recorded in Volume 1006, Page 92 of the Wharton County Deed Records and for an east corner of this tract; from which a 1/2-inch iron rod found for the east corner of said 0.784 acre tract and for a north corner of a called 51.4217 acre tract of land conveyed to Gordon Franklin Trustee, as recorded in Volume 249, Page 233 of the Wharton County Deed Records bears South 70° 28' 39" East - 180.00 feet;

THENCE, South 16° 23' 20" West - 290.91 feet with the northwest line of said 0.784 acre tract and with the northwest line of a called 0.413 acre tract of land conveyed to Hinze Bar-B-Que, Inc., as recorded in Volume 1006, Page 92 of the Wharton County Deed Records to a 1/2-inch iron rod spinner found for the west corner of a said 0.413 acre tract and for an interior corner of this tract;

THENCE, South 70° 36' 40" East - 180.36 feet (called South 67° 05' 15" East - 180.00 feet per Volume 1006, Page 92 of the Wharton County Deed Records) with the southwest line of said 0.413 acre tract to a point in the southeast line of said 5.00 acre tract and in a northwest line of a said 51.4217 acre tract for the south corner of said 0.413 acre tract and for an east corner of this tract; from which a 1/2-inch iron rod found bears North 67° 38' 34" West - 0.39 feet;

THENCE, South 16° 18' 47" West - 60.09 feet with the southeast line of said 5.00 acre tract and with the northwest line of said 51.4217 acre tract to a 1/2-inch iron rod found for the south corner of said 5.00 acre tract, for an interior corner of said 51.4217 acre tract of land and for a south corner of this tract;

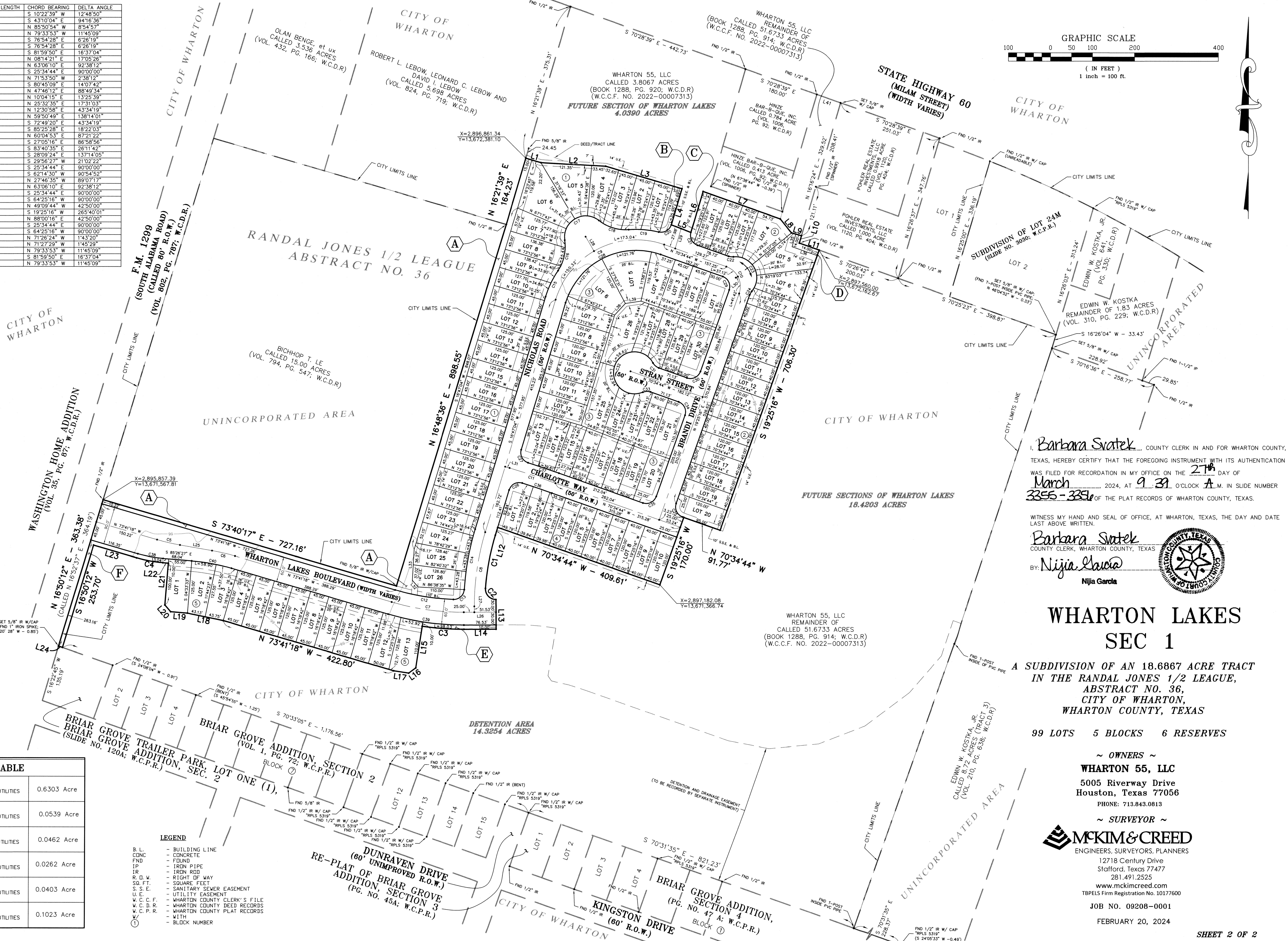
THENCE, North 70° 30' 11" West - 623.01 feet (called North 67° 05' 30" West – 623.00 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called North 67° 05' 15" West – 623.19 feet per Volume 519, Page 542 of the Wharton County Deed Records) with the southwest line of said 5.00 acre tract and with a northeast line of said 51.4217 acre tract to a bent 5/8-inch iron rod found in the southeast line of said 5.968 acre tract for a north corner of said 51.4217 acre tract, for the west corner of said 5.00 acre tract, and for the west corner of this tract; from which a 1/2-inch iron rod found for the south corner of said 5.968 acre tract bears South 16° 21' 39" West – 188.68 feet (called South 19° 44' West – 188.72 feet per Volume 249, Page 233 of the Wharton County Deed Records);

THENCE, North 16° 21' 39" East - 350.86 feet (called North 19° 49' 30" East – 350 feet per Volume 519, Page 542 of the Wharton County Deed Records) with the southeast line of said 5.698 acre tract and with the northwest line of said 5.00 acre tract to the POINT OF BEGINNING and containing 3.8067 acres of land.



CURVE	RADIUS	LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	575.00'	128.60'	128.33'	S 10°22'39" W	124°48'50"
C2	25.00'	41.14'	36.65'	S 43°10'04" E	94°16'36"
C3	640.00'	99.59'	99.49'	N 85°50'54" W	85°4'57"
C4	310.00'	63.59'	63.48'	N 79°33'53" W	11°45'09"
C5	500.00'	56.19'	56.16'	S 76°54'28" E	6°26'19"
C6	500.00'	56.19'	56.16'	S 76°54'28" E	6°26'19"
C7	600.00'	174.02'	173.41'	S 81°59'50" E	16°37'04"
C8	600.00'	178.97'	178.31'	N 08°14'21" E	17°05'26"
C9	200.00'	323.36'	289.28'	N 63°06'10" E	92°38'12"
C10	50.00'	78.54'	70.71'	S 25°34'44" E	90°00'00"
C11	2,500.00'	115.06'	115.04'	N 71°53'50" W	7°38'12"
C12	570.00'	140.55'	140.20'	S 80°45'09" E	14°07'42"
C13	25.00'	38.76'	34.99'	N 47°46'12" E	88°49'34"
C14	625.00'	146.47'	146.14'	N 10°04'15" E	13°25'39"
C15	225.00'	68.79'	68.52'	N 25°32'35" E	17°31'03"
C16	100.00'	76.75'	74.23'	N 12°30'58" E	43°34'19"
C17	50.00'	120.63'	93.43'	N 59°50'43" E	136°14'01"
C18	100.00'	76.05'	74.23'	S 72°49'20" E	43°34'19"
C19	225.00'	72.13'	71.82'	S 85°25'28" E	18°22'03"
C20	25.00'	38.12'	34.53'	N 60°04'53" E	87°21'22"
C21	25.00'	37.95'	34.41'	S 27°05'16" E	86°58'56"
C22	25.00'	11.43'	11.33'	S 83°40'35" E	26°11'42"
C23	50.00'	119.76'	93.12'	S 28°09'24" E	137°14'05"
C24	25.00'	9.18'	9.13'	S 29°56'27" W	21°02'22"
C25	25.00'	39.27'	35.36'	S 25°34'44" E	90°00'00"
C26	25.00'	39.67'	35.64'	S 62°14'30" W	90°54'52"
C27	25.00'	39.67'	35.64'	N 27°40'35" W	89°07'17"
C28	175.00'	282.94'	253.12'	N 63°06'10" E	92°38'12"
C29	25.00'	39.27'	35.36'	S 25°34'44" E	90°00'00"
C30	25.00'	39.27'	35.36'	S 64°25'16" W	90°00'00"
C31	25.00'	18.69'	18.26'	N 49°09'44" W	42°50'00"
C32	50.00'	231.84'	73.33'	S 19°25'16" W	265°40'01"
C33	25.00'	18.69'	18.26'	N 88°00'16" E	42°50'00"
C34	25.00'	39.27'	35.36'	S 25°34'44" E	90°00'00"
C35	25.00'	39.27'	35.36'	S 64°25'16" W	90°00'00"
C36	2,475.00'	74.39'	74.39'	N 71°26'24" W	1°43'20"
C37	2,525.00'	74.39'	74.39'	N 71°26'24" W	1°43'20"
C38	300.00'	61.54'	61.43'	N 79°33'53" W	11°45'09"
C39	630.00'	182.72'	182.08'	S 81°59'50" E	16°37'04"
C40	470.00'	96.41'	96.24'	N 79°33'53" W	11°45'09"

LINE	BEARING	DISTANCE
L1	S 73°38'20" E	37.20'
L2	S 86°46'23" E	154.80'
L3	S 73°35'48" E	189.35'
L4	S 16°24'12" W	89.31'
L5	S 68°57'54" E	50.16'
L6	N 16°24'12" E	101.46'
L7	S 70°34'44" E	195.02'
L8	S 38°42'55" E	42.91'
L9	S 73°43'35" E	24.74'
L10	S 16°16'24" W	18.15'
L11	S 70°26'42" E	49.98'
L12	S 16°47'04" W	18.57'
L13	S 00°18'22" E	70.00'
L14	S 89°41'38" W	76.53'
L15	S 08°36'34" W	100.00'
L16	S 53°36'34" W	21.21'
L17	N 81°23'26" W	35.82'
L18	N 78°27'49" W	86.88'
L19	N 85°26'27" W	40.00'
L20	N 40°26'27" W	21.21'
L21	N 04°33'33" E	100.00'
L22	N 85°26'27" W	13.04'
L23	N 73°41'18" W	106.44'
L24	N 70°33'05" W	10.01'
L25	S 80°07'33" E	77.52'
L26	N 89°41'38" E	76.53'
L27	N 00°18'22" W	13.99'
L28	N 30°09'11" W	39.76'
L29	N 16°24'12" E	49.48'
L30	S 61°57'10" W	5.62'
L31	N 73°12'56" W	10.90'
L32	N 41°38'35" W	21.21'
L33	N 03°21'25" E	73.21'
L34	S 70°34'44" E	20.29'
L35	S 16°16'24" W	31.37'
L36	S 70°26'42" E	63.23'
L37	N 70°34'44" W	50.00'
L38	N 42°32'08" E	37.59'
L39	N 81°22'15" E	37.65'
L40	N 73°12'56" W	34.99'
L41	S 70°28'39" E	59.77'



I, Barbara Sratek, COUNTY CLERK IN AND FOR WHARTON COUNTY, TEXAS, HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT WITH ITS AUTHENTICATION WAS FILED FOR RECORDATION IN MY OFFICE ON THE 27<sup>th</sup> DAY OF March, 2024, AT 9:31 O'CLOCK A.M. IN SLIDE NUMBER 3355 - 3351 OF THE PLAT RECORDS OF WHARTON COUNTY, TEXAS.

WITNESS MY HAND AND SEAL OF OFFICE, AT WHARTON, TEXAS, THE DAY AND DATE LAST ABOVE WRITTEN.

Barbara Sratek  
COUNTY CLERK, WHARTON COUNTY, TEXAS  
BY: Nijia Garcia  
Nijia Garcia

## WHARTON LAKES SEC 1

A SUBDIVISION OF AN 18.6867 ACRE TRACT  
IN THE RANDAL JONES 1/2 LEAGUE,  
ABSTRACT NO. 36,  
CITY OF WHARTON,  
WHARTON COUNTY, TEXAS

99 LOTS 5 BLOCKS 6 RESERVES

~ OWNERS ~

**WHARTON 55, LLC**  
5005 Riverway Drive  
Houston, Texas 77056  
PHONE: 713.843.0813

~ SURVEYOR ~

**MCKIM & CREED**  
ENGINEERS, SURVEYORS, PLANNERS  
12718 Century Drive  
Stafford, Texas 77477  
281.491.2525  
www.mckimcreed.com  
TBPELS Firm Registration No. 10177600  
JOB NO. 09208-0001  
FEBRUARY 20, 2024

SHEET 2 OF 2



**APPENDIX B**  
**BUDGETED COSTS OF AUTHORIZED IMPROVEMENTS**

**Phase 1 and Major Improvements**  
**Engineer's Estimate of Probable Costs**

Direct Phase Costs		Totals	Phase 1
Water		\$615,345.76	\$261,455.93
Sanitary Sewer		\$582,918.75	\$247,677.93
Storm Sewer		\$1,155,525.67	\$490,974.43
Road Improvements		\$2,130,798.94	\$905,360.93
Detention/Earthwork			
Parks and Landscaping			
Subtotal Hard Costs		\$4,484,589.13	\$1,905,469.20
Soft Costs			
Survey & Engineering	18%	\$807,226.04	\$342,984.46
Contingency/Escalation	20%	\$896,917.83	\$381,093.84
Land		\$100,000.00	\$100,000.00
Financing/Administrative		\$300,000.00	\$150,000.00
Subtotal Soft Costs		\$2,104,143.87	\$974,078.30
<b>Total Direct Phase Costs</b>		<b>\$6,588,733.00</b>	<b>\$2,879,547.50</b>
Major Improvements		Totals	
Water		\$229,645.00	
Sanitary Sewer		\$215,867.00	
Storm Sewer		\$459,163.50	
Paving		\$200,000.00	
Detention/Earthwork		\$851,144.00	
Parks and Landscaping		\$800,000.00	
Subtotal Hard Costs		\$2,755,819.50	
Soft Costs			
Survey & Engineering	18%	\$496,047.51	
Contingency/Escalation	20%	\$551,163.90	
Land		\$300,000.00	
Financing/Administrative		\$400,000.00	
Subtotal Soft Costs		\$1,747,211.41	
<b>Total Major Improvements</b>		<b>\$4,503,030.91</b>	
<b><u>Totals</u></b>		<b><u>\$11,091,763.91</u></b>	

Lot Count		Share
Phase 1	99	42.49%
Future	134	57.51%
Total	233	100.00%

Costs are estimates and final costs of the Public Improvements shall be as set forth in the applicable Service and Assessment Plan. The Service and Assessment Plan will also include costs of issuance for the PID Bonds.

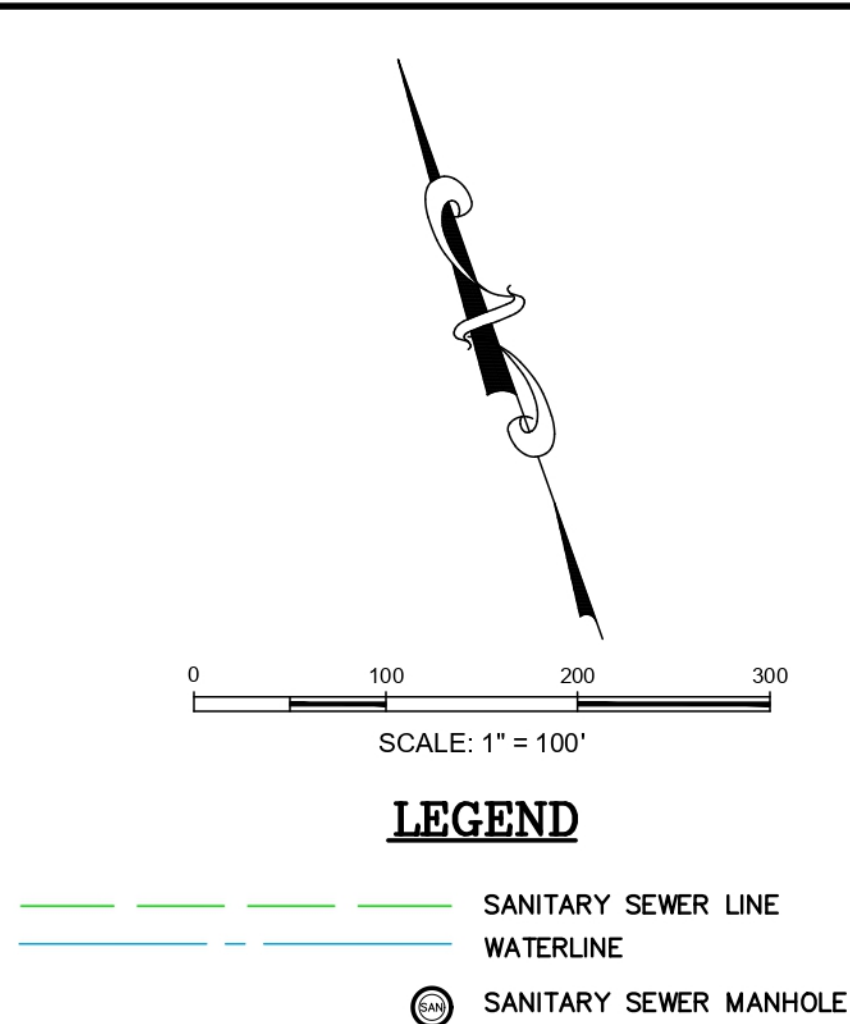
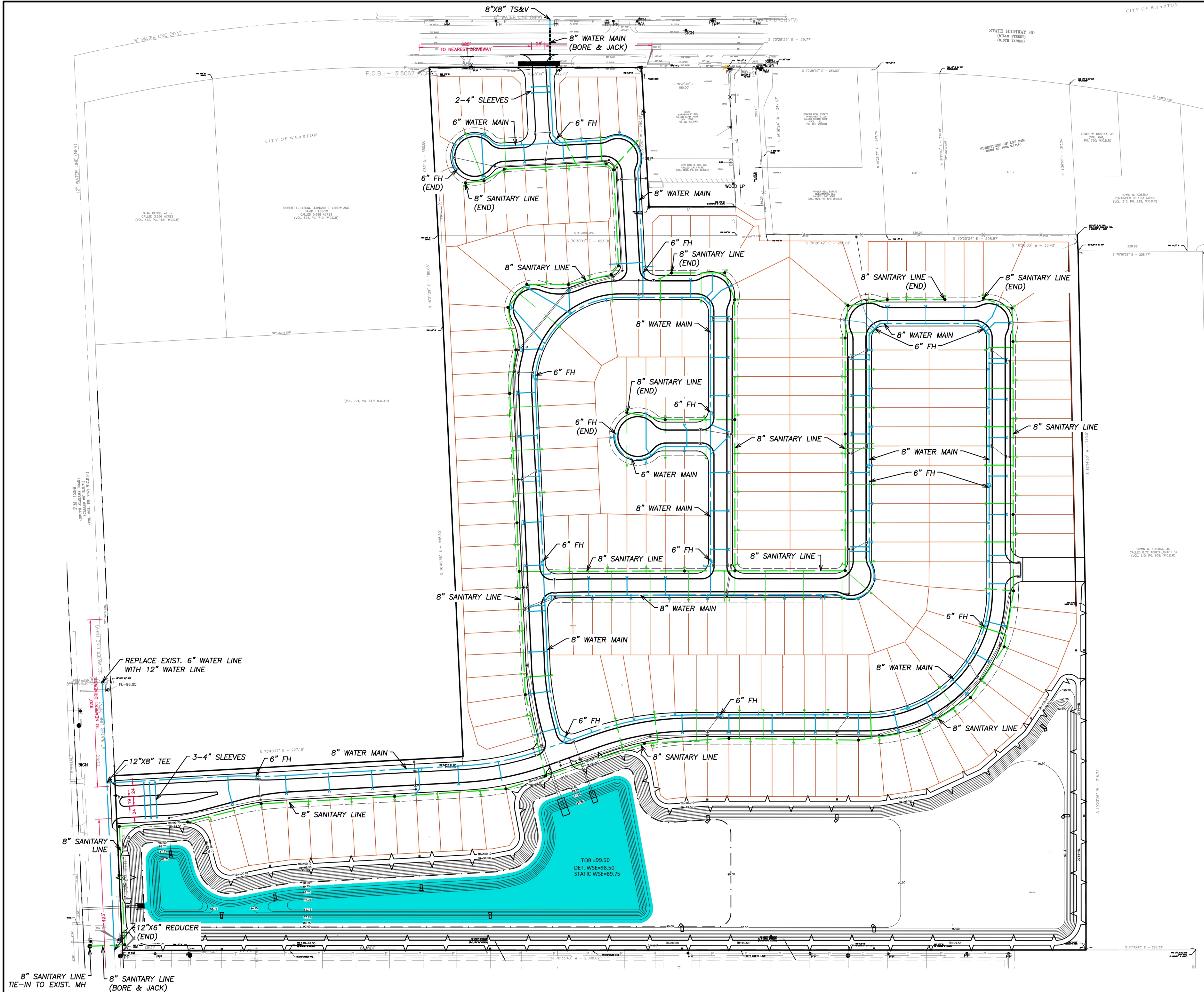
Master Costs of WSD&P:

SWPPP	\$19,638.00
Hydromulch	\$48,044.70
Bonds	\$59,561.00
Total Other	\$127,243.70
Split evenly across categories	\$31,810.93

**APPENDIX C**  
**DIAGRAMS OF THE AUTHORIZED IMPROVEMENTS**



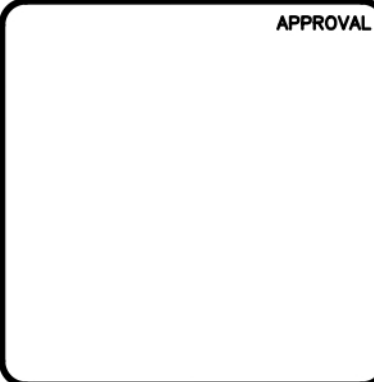
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**WATER & SANITARY NOTES:**

- CONTRACTOR TO FIELD VERIFY ALL CRITICAL TIE-IN ELEVATIONS OF EXISTING SANITARY SEWER MANHOLES BEFORE COMMENCING ANY NEW CONSTRUCTION.
- CONTRACTOR SHALL DETERMINE IF CONFLICT EXISTS AT ALL PROPOSED UTILITY CROSSINGS PRIOR TO STARTING CONSTRUCTION & REPORT ANY CONFLICT TO ENGINEER IMMEDIATELY.
- CLEAN-OUTS, MANHOLES, OR VALVES IN PAVEMENT OR SIDEWALK SHALL HAVE TRAFFIC BEARING LIDS OR GRATES.
- CONTRACTOR TO REPLACE ANY PUBLIC & PRIVATE UTILITIES DAMAGED DURING CONSTRUCTION INCLUDING: SPRINKLER SYSTEMS, ELECTRICAL WIRING, GAS LINES, WATER MAINS OR ANY OTHER DAMAGED UTILITIES.
- CONTRACTOR TO COORDINATE WITH THE AUTHORITY HAVING JURISDICTION (AHJ) FOR ALL SANITARY SEWER & WATER TAP REQUIREMENTS, INSPECTIONS, TAP FEES, ETC., INCLUDING 811 OR ONE-CALL TO LOCATE EXISTING UNDERGROUND UTILITIES TO PREVENT ANY DAMAGE.
- ALL WATER & SANITARY SEWER CONNECTIONS TO THE DISTRICT'S/CITY'S FACILITIES SHALL BE IN ACCORDANCE WITH THE DISTRICT'S/CITY'S RATE ORDER.
- ALL PRIVATE AND PUBLIC WATER LINE AND SEWER LINES TO MEET AT MINIMUM, TOEQ REQUIREMENTS.
- DOMESTIC WATER LINES TO MEET AT MINIMUM 3' OF COVER, FIRE WATER LINES TO MEET AT LEAST 4' OF COVER.
- CONTRACTOR TO OBTAIN ALL NECESSARY AHJ INSPECTIONS PRIOR TO BACKFILLING UTILITIES.
- CONTRACTOR TO COORDINATE WITH CENTERPOINT ENERGY FOR POWER SERVICE & GAS LINE SERVICE.

REV.	NO.	REVISIONS	DATE



**McKIM & CREED**  
12718 CENTURY DRIVE  
STAFFORD, TEXAS 77477  
PHONE: 281.491.2525 FAX: 281.491.2535  
SURVEYING FIRM NO. 10177600  
ENGINEERING FIRM NO. F-14777  
[www.mckimcreed.com](http://www.mckimcreed.com)

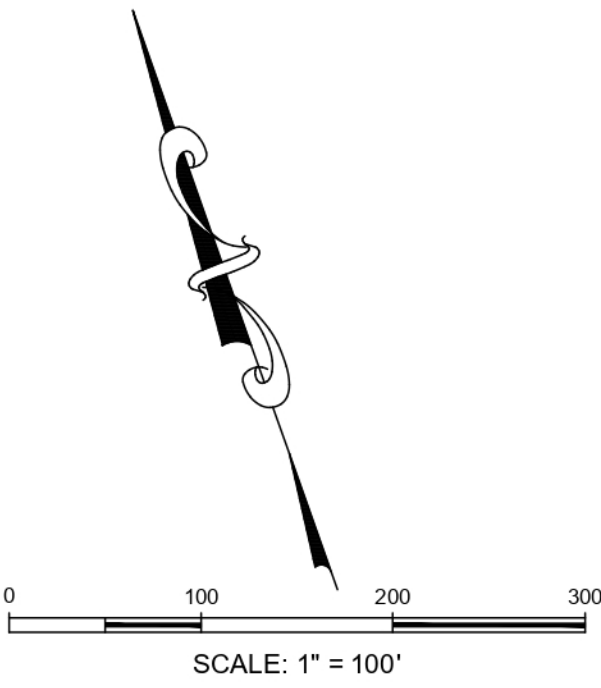
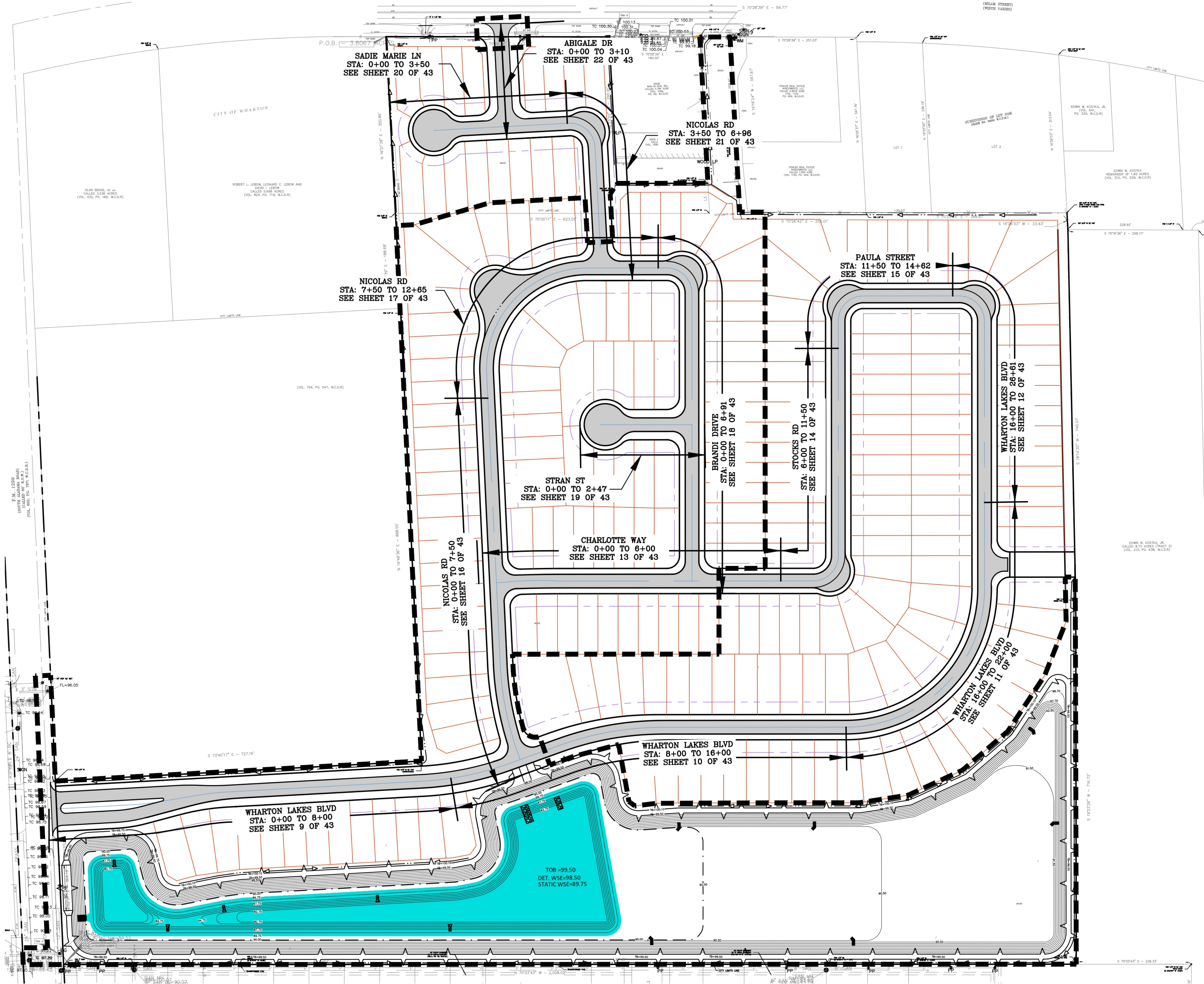
**WHARTON LAKES  
SUBDIVISION**

**OVERALL  
WATER & SANITARY  
LAYOUT**

DATE: 7/21/2023	SCALE: 1"=100'	DRAWING NUMBER <b>C2.00</b> 7 OF 43
MCE PROJ. #09208-0001	HORIZONTAL: 1"=100'	
DRAWN: DL	VERTICAL: N/A	
DESIGNED: OP		
CHECKED: SS		
PROJ. MGR. SS		
STATUS: <b>FOR REVIEW/PERMIT</b>		



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**LEGEND**  
--- LIMITS OF PHASE 1

REVISIONS		
REV. NO.	DESCRIPTIONS	DATE

APPROVAL



**MCKIM & CREED**  
12718 CENTURY DRIVE  
STAFFORD, TEXAS 77477  
PHONE: 281.491.2525 FAX: 281.491.2535  
SURVEYING FIRM NO. 10177600  
ENGINEERING FIRM NO. F-14777  
www.mckimcreed.com

WHARTON LAKES  
SUBDIVISION

PROFILE STATION  
LAYOUT

DATE: 7/21/2023	SCALE	DRAWING NUMBER <b>C3.00</b> 8 OF 43
MCE PROJ. #09208-0001	HORIZONTAL: 1"=100'	
DRAWN DL	VERTICAL: N/A	
DESIGNED OP		
CHECKED SS		
PROJ. MGR. SS		
STATUS: FOR REVIEW/PERMIT		



**APPENDIX D**  
**ASSESSMENT PER UNIT, PROJECTED LEVERAGE AND PROJECTED TAX RATE**  
**EQUIVALENTS**



## **Appendix D**

For purposes of calculating and allocating the Assessments, the Assessed Property has been classified in one of two Lot Types.

**“Lot Type 1”** means lots identified as such on the Assessment Roll, being lots typically with a Lot width of approximately 45 feet.

**“Lot Type 2”** means lots identified as such on the Assessment Roll, being lots typically with a Lot width of approximately 40 feet.

### **A) Proposed Development**

The following table shows the proposed residential units to be developed within the PID.

**Table D-1**  
**Proposed Development within the PID**

<b>Description</b>	<b>Proposed Development</b>	
Lot Type 1 (45 Ft)	95	Units
Lot Type 2 (40 Ft)	138	Units
<b>Total</b>	<b>233</b>	<b>Units</b>

Table D-2 below shows the proposed residential units within Phase #1.

**Table D-2**  
**Proposed Development – Phase #1**

<b>Description</b>	<b>Proposed Development</b>	
Lot Type 1 (45 Ft)	51	Units
Lot Type 2 (40 Ft)	48	Units
<b>Total</b>	<b>99</b>	<b>Units</b>

Table D-3 below shows the proposed residential units within Future Phases.

**Table D-3**  
**Proposed Development – Future Phases**

<b>Description</b>	<b>Proposed Development</b>	
Lot Type 1 (45 Ft)	44	Units
Lot Type 2 (40 Ft)	90	Units
<b>Total</b>	<b>134</b>	<b>Units</b>

## B) Calculation of Equivalent Units

As explained under Section V, for purpose of this Service and Assessment Plan, the City Council has determined that the Budgeted Costs of the Authorized Improvements to be financed with the Bonds shall be allocated to the Assessed Property by spreading the entire Assessment across the Parcels based on the estimated Equivalent Units.

For purposes of this Plan, the City Council has determined that the Assessments shall be allocated to the Assessed Property on the basis of the average home value of each Lot Type, and that such method of allocation will result in the imposition of equal shares of the Assessments on Parcels similarly benefited. In determining the average home value of each Lot Type, the City Council has taken into consideration (i) the type of lots (i.e., 45 Ft lots, 40 Ft lots, etc.); (ii) current and projected home prices; (iii) the costs of the Authorized Improvements, and (iv) the ability of different property types to utilize and benefit from the Authorized Improvements.

Having taken into consideration the matters described above, the City Council has determined that allocating the Assessments among Parcels based on average home value is best accomplished by creating classifications of benefited Parcels based on the “Lot Types” defined above. These classifications (from Lot Type 1 (45 Ft Lots) representing the highest value to Lot Type 2 (40 Ft Lot) representing the lowest value for residential lots are set forth in Table D-1. Assessments are allocated to each Lot Type on the basis of the average home value for each class of lots. This is accomplished by giving each Lot Type an Equivalent Unit factor. Equivalent Units are the ratio of the average value of lots within each assessment class, setting the Equivalent Unit factor for Lot Type 1 (45 Ft Lots) to 1.0.

**Table D-4**  
**Equivalent Unit Factors**

<b>Lot Type</b>	<b>Estimated Average Value</b>	<b>Equivalent Unit Factor</b>
Lot Type 1 (45 Ft)	\$250,000	1.00 per dwelling unit
Lot Type 2 (40 Ft)	\$240,000	0.96 per dwelling unit

The total Equivalent Units for the PID are shown in Table D-5 as calculated based on the Equivalent Unit factors shown in Table D-4, estimated Lot Types and number of units estimated to be built within the PID.

**Table D-5**  
**Equivalent Units- PID**

<b>Description</b>	<b>Planned No. of Units</b>	<b>Equivalent Unit Factor</b>	<b>Total Equivalent Units</b>
Lot Type 1 (45 Ft)	95	1.00	95.00
Lot Type 2 (40 Ft)	138	0.96	132.48
<b>Total</b>	<b>233</b>		<b>227.48</b>

The total Equivalent Units for Phase #1 are shown in Table D-6 as calculated based on the Equivalent Unit factors shown in Table D-4, estimated Lot Types and number of units estimated to be built in Phase #1 in the PID.

**Table D-6**  
**Equivalent Units- PID**

<b>Description</b>	<b>Planned No. of Units</b>	<b>Equivalent Unit Factor</b>	<b>Total Equivalent Units</b>
Lot Type 1 (45 Ft)	51	1.00	51.00
Lot Type 2 (40 Ft)	48	0.96	46.08
<b>Total</b>	<b>99</b>		<b>97.08</b>

### C) Allocation of Assessments to Lots within Phase #1

The total amount of the Phase #1 Reimbursement Agreement, which represents the total Assessment to be allocated on all Parcels within Phase #1, is \$4,333,000. As shown above, there are a total of 99 residential units, resulting in an Assessment per Unit of \$44,633.29 (i.e.  $\$4,333,000 \div 99 = \$44,633.29$ ).

Table D-7 sets forth the Assessment per dwelling unit within Phase #1.

**Table D-7**  
**Assessment Per Unit – Phase #1**

<b>Description</b>	<b>Planned No. of Units</b>	<b>Assessment per Equivalent Unit</b>	<b>Equivalent Unit Factor</b>	<b>Assessment per Unit</b>	<b>Total Assessments</b>
Lot Type 1 (45 Ft)	51	\$44,633.29	1.00	\$44,633.29 per dwelling unit	\$2,276,298
Lot Type 2 (40 Ft)	48	\$44,633.29	0.96	\$42,847.96 per dwelling unit	\$2,056,702
<b>Total</b>	<b>99</b>				<b>\$4,333,000</b>

The projected leverage calculated based on the estimated land values, finished lot values and home values for each unit is shown in Table D-8 below.

**Table D-8**  
**Projected Leverage – Phase #1**

<b>Description</b>	<b>Planned No. of Units</b>	<b>Estimated Finished Lot Value per unit</b>	<b>Projected Home Value per unit</b>	<b>Assessment per Unit<sup>1</sup></b>	<b>Leverage (Lot Value)</b>	<b>Leverage (Home Value)</b>
Lot Type 1 (45 Ft)	51	\$54,000	\$250,000	\$44,633.29	1.21	5.60
Lot Type 2 (40 Ft)	48	\$48,000	\$240,000	\$42,847.96	1.12	5.60

The projected tax rate equivalent per unit based on the estimated finished lot values and home values for each unit is shown in Table D-9.

**Table D-9**  
**Estimated Tax Rate Equivalent per unit – Phase #1**

<b>Description</b>	<b>Planned No. of Units</b>	<b>Estimated Finished Lot Value per unit</b>	<b>Projected Home Value per unit</b>	<b>Projected Average Annual Installment per unit</b>	<b>Tax Rate Equivalent (per \$100 Lot Value)</b>	<b>Tax Rate Equivalent (per \$100 Home Value)</b>
Lot Type 1 (45 Ft)	51	\$54,000	\$250,000	\$3,693.63	\$6.84	\$1.48
Lot Type 2 (40 Ft)	48	\$48,000	\$240,000	\$3,545.89	\$7.39	\$1.48

The Assessment and Annual Installments for each Parcel or Lot located within Phase #1 is shown on the Phase #1 Assessment Roll, attached as Appendix F, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

**APPENDIX E**  
**PID ASSESSMENT NOTICE**

AFTER RECORDING RETURN TO:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_]<sup>1</sup>

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO  
 CITY OF WHARTON, TEXAS  
 CONCERNING THE FOLLOWING PROPERTY

\_\_\_\_\_  
 STREET ADDRESS

LOT TYPE \_\_\_\_\_ PRINCIPAL ASSESSMENT: \$ \_\_\_\_\_

As the purchaser of the real property described above, you are obligated to pay assessments to the City of Wharton, Texas (the "City"), for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within ***Wharton Public Improvement District No. 2*** (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from the City. The exact amount of each annual installment will be approved each year by the City Council in the annual service plan update for the district. More information about the assessments, including the amounts and due dates, may be obtained from the City.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

<sup>1</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Wharton County.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF  
PURCHASER

\_\_\_\_\_  
SIGNATURE OF  
PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER]<sup>2</sup>

<sup>2</sup> To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF  
PURCHASER

\_\_\_\_\_  
SIGNATURE OF  
PURCHASER

STATE OF TEXAS

§

COUNTY OF WHARTON

§

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>3</sup>

<sup>3</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Wharton County.



The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER\_\_\_\_\_  
SIGNATURE OF SELLER

STATE OF TEXAS

§

§

COUNTY OF WHARTON

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>4</sup>

\_\_\_\_\_  
<sup>4</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Wharton County.

**APPENDIX F**  
**PHASE #1 ASSESSMENT ROLL**

**Appendix F-1**  
**Phase #1 Assessment Roll**

<b>Parcel Units Assessment</b>	<b>55729 and 31753 227.48 \$4,333,000</b>			
<b>Year <sup>1</sup></b>	<b>Principal</b>	<b>Interest<sup>2</sup></b>	<b>Administrative Expenses<sup>3</sup></b>	<b>Total Annual Installment</b>
9/30/25	\$58,000	\$275,579	\$25,500	\$359,079
9/30/26	\$61,000	\$271,890	\$26,010	\$358,900
9/30/27	\$64,000	\$268,010	\$26,530	\$358,541
9/30/28	\$68,000	\$263,940	\$27,061	\$359,001
9/30/29	\$72,000	\$259,615	\$27,602	\$359,217
9/30/30	\$75,000	\$255,036	\$28,154	\$358,190
9/30/31	\$80,000	\$250,266	\$28,717	\$358,983
9/30/32	\$84,000	\$245,178	\$29,291	\$358,469
9/30/33	\$89,000	\$239,836	\$29,877	\$358,713
9/30/34	\$94,000	\$234,175	\$30,475	\$358,650
9/30/35	\$99,000	\$228,197	\$31,084	\$358,281
9/30/36	\$104,000	\$221,900	\$31,706	\$357,606
9/30/37	\$110,000	\$215,286	\$32,340	\$357,626
9/30/38	\$117,000	\$208,290	\$32,987	\$358,277
9/30/39	\$124,000	\$200,849	\$33,647	\$358,496
9/30/40	\$131,000	\$192,962	\$34,320	\$358,282
9/30/41	\$138,000	\$184,631	\$35,006	\$357,637
9/30/42	\$146,000	\$175,854	\$35,706	\$357,560
9/30/43	\$155,000	\$166,568	\$36,420	\$357,989
9/30/44	\$164,000	\$156,710	\$37,149	\$357,859
9/30/45	\$174,000	\$146,280	\$37,892	\$358,172
9/30/46	\$185,000	\$135,214	\$38,649	\$358,863
9/30/47	\$196,000	\$123,448	\$39,422	\$358,870
9/30/48	\$207,000	\$110,982	\$40,211	\$358,193
9/30/49	\$220,000	\$97,817	\$41,015	\$358,832
9/30/50	\$233,000	\$83,825	\$41,835	\$358,660
9/30/51	\$248,000	\$69,006	\$42,672	\$359,678
9/30/52	\$263,000	\$53,233	\$43,526	\$359,759
9/30/53	\$279,000	\$36,506	\$44,396	\$359,903
9/30/54	\$295,000	\$18,762	\$45,284	\$359,046
<b>Total</b>	<b>\$4,333,000</b>	<b>\$5,389,846</b>	<b>\$1,034,486</b>	<b>\$10,757,332</b>

<sup>1</sup>The 9/30/XX dates represent the fiscal year end for the Phase #1 Reimbursement Agreement.

<sup>2</sup> The interest is calculated using a 6.36% interest rate for years 1 through 5 and a 6.36% interest rate for years 6 through 30 on the obligations under the Phase #1 Reimbursement Agreement for the Phase #1 Projects.

<sup>3</sup>Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates. Assumes a 2% increase per year.

<sup>4</sup>Annual Installment does not include any credit from the TIRZ Annual Credit Amount.

**Appendix F-2**  
**Phases #1 Assessment Roll Summary**

<b>Parcel ID</b>	<b>Block #</b>	<b>Lot #</b>	<b>Lot Size</b>	<b>Equivalent Units</b>	<b>Outstanding Assessment</b>
TBD	1	1	45'	1.00	\$44,633.29
TBD	1	2	45'	1.00	\$44,633.29
TBD	1	3	45'	1.00	\$44,633.29
TBD	1	4	45'	1.00	\$44,633.29
TBD	1	5	45'	1.00	\$44,633.29
TBD	1	6	45'	1.00	\$44,633.29
TBD	1	7	45'	1.00	\$44,633.29
TBD	1	8	45'	1.00	\$44,633.29
TBD	1	9	45'	1.00	\$44,633.29
TBD	1	10	45'	1.00	\$44,633.29
TBD	1	11	45'	1.00	\$44,633.29
TBD	1	12	45'	1.00	\$44,633.29
TBD	1	13	45'	1.00	\$44,633.29
TBD	1	14	45'	1.00	\$44,633.29
TBD	1	15	45'	1.00	\$44,633.29
TBD	1	16	45'	1.00	\$44,633.29
TBD	1	17	45'	1.00	\$44,633.29
TBD	1	18	45'	1.00	\$44,633.29
TBD	1	19	45'	1.00	\$44,633.29
TBD	1	20	45'	1.00	\$44,633.29
TBD	1	21	45'	1.00	\$44,633.29
TBD	1	22	45'	1.00	\$44,633.29
TBD	1	23	45'	1.00	\$44,633.29
TBD	1	24	45'	1.00	\$44,633.29
TBD	1	25	45'	1.00	\$44,633.29
TBD	1	26	45'	1.00	\$44,633.29
TBD	2	1	40'	0.96	\$42,847.96
TBD	2	2	40'	0.96	\$42,847.96
TBD	2	3	40'	0.96	\$42,847.96
TBD	2	4	40'	0.96	\$42,847.96
TBD	2	5	40'	0.96	\$42,847.96
TBD	2	6	40'	0.96	\$42,847.96
TBD	2	7	40'	0.96	\$42,847.96
TBD	2	8	40'	0.96	\$42,847.96
TBD	2	9	40'	0.96	\$42,847.96
TBD	2	10	40'	0.96	\$42,847.96
TBD	2	11	40'	0.96	\$42,847.96
TBD	2	12	40'	0.96	\$42,847.96
TBD	2	13	40'	0.96	\$42,847.96
TBD	2	14	40'	0.96	\$42,847.96

**Appendix F-2**  
**Phases #1 Assessment Roll Summary**

<b>Parcel ID</b>	<b>Block #</b>	<b>Lot #</b>	<b>Lot Size</b>	<b>Equivalent Units</b>	<b>Outstanding Assessment</b>
TBD	2	15	40'	0.96	\$42,847.96
TBD	2	16	40'	0.96	\$42,847.96
TBD	2	17	40'	0.96	\$42,847.96
TBD	2	18	40'	0.96	\$42,847.96
TBD	2	19	40'	0.96	\$42,847.96
TBD	2	20	40'	0.96	\$42,847.96
TBD	3	1	40'	0.96	\$42,847.96
TBD	3	2	45'	1.00	\$44,633.29
TBD	3	3	45'	1.00	\$44,633.29
TBD	3	4	40'	0.96	\$42,847.96
TBD	3	5	45'	1.00	\$44,633.29
TBD	3	6	45'	1.00	\$44,633.29
TBD	3	7	40'	1.00	\$42,847.96
TBD	3	8	45'	1.00	\$44,633.29
TBD	3	9	45'	1.00	\$44,633.29
TBD	3	10	45'	1.00	\$44,633.29
TBD	3	11	45'	1.00	\$44,633.29
TBD	3	12	45'	1.00	\$44,633.29
TBD	3	13	40'	0.96	\$42,847.96
TBD	3	14	40'	0.96	\$42,847.96
TBD	3	15	40'	0.96	\$42,847.96
TBD	3	16	40'	0.96	\$42,847.96
TBD	3	17	40'	0.96	\$42,847.96
TBD	3	18	40'	0.96	\$42,847.96
TBD	3	19	40'	0.96	\$42,847.96
TBD	3	20	40'	0.96	\$42,847.96
TBD	3	21	40'	0.96	\$42,847.96
TBD	3	22	40'	0.96	\$42,847.96
TBD	3	23	40'	0.96	\$42,847.96
TBD	3	24	40'	0.96	\$42,847.96
TBD	3	25	45'	1.00	\$44,633.29
TBD	3	26	45'	1.00	\$44,633.29
TBD	3	27	40'	0.96	\$42,847.96
TBD	3	28	40'	0.96	\$42,847.96
TBD	3	29	40'	0.96	\$42,847.96
TBD	3	30	40'	0.96	\$42,847.96
TBD	4	1	40'	0.96	\$42,847.96
TBD	4	2	40'	0.96	\$42,847.96
TBD	4	3	40'	0.96	\$42,847.96
TBD	4	4	40'	0.96	\$42,847.96

**Appendix F-2**  
**Phases #1 Assessment Roll Summary**

<b>Parcel ID</b>	<b>Block #</b>	<b>Lot #</b>	<b>Lot Size</b>	<b>Equivalent Units</b>	<b>Outstanding Assessment</b>
TBD	4	5	40'	0.96	\$42,847.96
TBD	4	6	40'	0.96	\$42,847.96
TBD	4	7	40'	0.96	\$42,847.96
TBD	4	8	40'	0.96	\$42,847.96
TBD	4	9	40'	0.96	\$42,847.96
TBD	4	10	40'	0.96	\$42,847.96
TBD	5	1	45'	1.00	\$44,633.29
TBD	5	2	45'	1.00	\$44,633.29
TBD	5	3	45'	1.00	\$44,633.29
TBD	5	4	45'	1.00	\$44,633.29
TBD	5	5	45'	1.00	\$44,633.29
TBD	5	6	45'	1.00	\$44,633.29
TBD	5	7	45'	1.00	\$44,633.29
TBD	5	8	45'	1.00	\$44,633.29
TBD	5	9	45'	1.00	\$44,633.29
TBD	5	10	45'	1.00	\$44,633.29
TBD	5	11	45'	1.00	\$44,633.29
TBD	5	12	45'	1.00	\$44,633.29
TBD	5	13	45'	1.00	\$44,633.29
<b>Total</b>		<b>99</b>		<b>97.08</b>	<b>\$4,331,214.67</b>

**Appendix F-3**  
**Phase #1 Assessment Roll by Lot Type**

<b>Lot Type</b>					<b>Lot Type 1 (45 Ft)</b>
<b>Units</b>					<b>1.00</b>
<b>Assessment</b>					<b>\$44,633.29</b>
<b>Year <sup>1</sup></b>	<b>Principal</b>	<b>Interest<sup>2</sup></b>	<b>Administrative Expenses<sup>3</sup></b>	<b>Total Annual Installment</b>	
9/30/25	\$597	\$2,839	\$263	\$3,699	
9/30/26	\$628	\$2,801	\$268	\$3,697	
9/30/27	\$659	\$2,761	\$273	\$3,693	
9/30/28	\$700	\$2,719	\$279	\$3,698	
9/30/29	\$742	\$2,674	\$284	\$3,700	
9/30/30	\$773	\$2,627	\$290	\$3,690	
9/30/31	\$824	\$2,578	\$296	\$3,698	
9/30/32	\$865	\$2,526	\$302	\$3,693	
9/30/33	\$917	\$2,470	\$308	\$3,695	
9/30/34	\$968	\$2,412	\$314	\$3,694	
9/30/35	\$1,020	\$2,351	\$320	\$3,691	
9/30/36	\$1,071	\$2,286	\$327	\$3,684	
9/30/37	\$1,133	\$2,218	\$333	\$3,684	
9/30/38	\$1,205	\$2,146	\$340	\$3,691	
9/30/39	\$1,277	\$2,069	\$347	\$3,693	
9/30/40	\$1,349	\$1,988	\$354	\$3,691	
9/30/41	\$1,422	\$1,902	\$361	\$3,684	
9/30/42	\$1,504	\$1,811	\$368	\$3,683	
9/30/43	\$1,597	\$1,716	\$375	\$3,688	
9/30/44	\$1,689	\$1,614	\$383	\$3,686	
9/30/45	\$1,792	\$1,507	\$390	\$3,689	
9/30/46	\$1,906	\$1,393	\$398	\$3,697	
9/30/47	\$2,019	\$1,272	\$406	\$3,697	
9/30/48	\$2,132	\$1,143	\$414	\$3,690	
9/30/49	\$2,266	\$1,008	\$422	\$3,696	
9/30/50	\$2,400	\$863	\$431	\$3,694	
9/30/51	\$2,555	\$711	\$440	\$3,705	
9/30/52	\$2,709	\$548	\$448	\$3,706	
9/30/53	\$2,874	\$376	\$457	\$3,707	
9/30/54	\$3,039	\$193	\$466	\$3,698	
<b>Total</b>	<b>\$44,633</b>	<b>\$55,520</b>	<b>\$10,656</b>	<b>\$110,809</b>	

<sup>1</sup>The 9/30/XX dates represent the fiscal year end for the Phase #1 Reimbursement Agreement.

<sup>2</sup> The interest is calculated using a 6.36% interest rate for years 1 through 5 and a 6.36% interest rate for years 6 through 30 on the obligations under the Phase #1 Reimbursement Agreement for the Phase #1 Projects.

<sup>3</sup>Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates. Assumes a 2% increase per year.

<sup>4</sup>Annual Installment does not include any credit from the TIRZ Annual Credit Amount.

**Appendix F-3**  
**Phase #1 Assessment Roll by Lot Type**

<b>Lot Type</b>		<b>Lot Type 2 (40 Ft)</b>		
<b>Units</b>		<b>0.96</b>		
<b>Assessment</b>		<b>\$42,847.96</b>		
<b>Year <sup>1</sup></b>	<b>Principal</b>	<b>Interest<sup>2</sup></b>	<b>Administrative Expenses<sup>3</sup></b>	<b>Total Annual Installment</b>
9/30/25	\$574	\$2,725	\$252	\$3,551
9/30/26	\$603	\$2,689	\$257	\$3,549
9/30/27	\$633	\$2,650	\$262	\$3,546
9/30/28	\$672	\$2,610	\$268	\$3,550
9/30/29	\$712	\$2,567	\$273	\$3,552
9/30/30	\$742	\$2,522	\$278	\$3,542
9/30/31	\$791	\$2,475	\$284	\$3,550
9/30/32	\$831	\$2,425	\$290	\$3,545
9/30/33	\$880	\$2,372	\$295	\$3,547
9/30/34	\$930	\$2,316	\$301	\$3,547
9/30/35	\$979	\$2,257	\$307	\$3,543
9/30/36	\$1,028	\$2,194	\$314	\$3,536
9/30/37	\$1,088	\$2,129	\$320	\$3,536
9/30/38	\$1,157	\$2,060	\$326	\$3,543
9/30/39	\$1,226	\$1,986	\$333	\$3,545
9/30/40	\$1,295	\$1,908	\$339	\$3,543
9/30/41	\$1,365	\$1,826	\$346	\$3,537
9/30/42	\$1,444	\$1,739	\$353	\$3,536
9/30/43	\$1,533	\$1,647	\$360	\$3,540
9/30/44	\$1,622	\$1,550	\$367	\$3,539
9/30/45	\$1,721	\$1,447	\$375	\$3,542
9/30/46	\$1,829	\$1,337	\$382	\$3,549
9/30/47	\$1,938	\$1,221	\$390	\$3,549
9/30/48	\$2,047	\$1,097	\$398	\$3,542
9/30/49	\$2,176	\$967	\$406	\$3,548
9/30/50	\$2,304	\$829	\$414	\$3,547
9/30/51	\$2,452	\$682	\$422	\$3,557
9/30/52	\$2,601	\$526	\$430	\$3,558
9/30/53	\$2,759	\$361	\$439	\$3,559
9/30/54	\$2,917	\$186	\$448	\$3,551
<b>Total</b>	<b>\$42,848</b>	<b>\$53,299</b>	<b>\$10,230</b>	<b>\$106,377</b>

<sup>1</sup>The 9/30/XX dates represent the fiscal year end for the Phase #1 Reimbursement Agreement.

<sup>2</sup> The interest is calculated using a 6.36% interest rate for years 1 through 5 and a 6.36% interest rate for years 6 through 30 on the obligations under the Phase #1 Reimbursement Agreement for the Phase #1 Projects.

<sup>3</sup>Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates. Assumes a 2% increase per year.

<sup>4</sup>Annual Installment does not include any credit from the TIRZ Annual Credit Amount.



CERTIFICATE OF CITY SECRETARY

STATE OF TEXAS §

COUNTY OF WHARTON §

CITY OF WHARTON §

I, Paula Favors, City Secretary of the City of Wharton, Texas, DO HEREBY CERTIFY as follows:

1. That on the 13<sup>th</sup> day of May 2024, a regular meeting of the City Council of the City of Wharton, Texas, was held at its regular meeting place; the duly constituted members of the City Council being as follows:

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

and all of said persons were present except \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, a written ordinance bearing the following caption:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, ACCEPTING AND APPROVING A SERVICE AND ASSESSMENT PLAN AND PHASE #1 ASSESSMENT ROLL FOR THE WHARTON PUBLIC IMPROVEMENT DISTRICT NO. 2; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN PHASE #1 OF THE DISTRICT; LEVYING SPECIAL ASSESSMENTS AGAINST PROPERTY WITHIN PHASE #1 OF THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

was introduced and submitted to the City Council for passage and adoption. After presentation and due consideration of the ordinance, and upon a motion being made and seconded, the ordinance was finally passed and adopted by the City Council to be effective immediately by the following vote:

voted “For”      voted “Against”      abstained

all as shown in the official minutes of the City Council for the meeting held on the aforesaid date.

2. That the attached ordinance is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the City Council of said City on the date of the aforesaid meeting are those persons shown above and, according to the records of my office, each member of the City Council was given actual notice of the time, place, and purpose of the meeting and had actual notice that the matter would be considered; and that said meeting, and deliberation of the aforesaid public business, was open to the public and written notice of said meeting, including the subject of the entitled ordinance, was posted and given in advance thereof in compliance with the provisions of Texas Government Code Chapter 551, as amended.

*[Signature page to follow]*

IN WITNESS WHEREOF, I have hereunto signed my name officially and affixed the seal of the City, this the 13<sup>th</sup> day of May 2024.

---

City Secretary  
City of Wharton, Texas

(City Seal)

*[Signature page to the Certificate of City Secretary]*

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, ACCEPTING AND APPROVING A SERVICE AND ASSESSMENT PLAN AND PHASE #1 ASSESSMENT ROLL FOR THE WHARTON PUBLIC IMPROVEMENT DISTRICT NO. 2; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN PHASE #1 OF THE DISTRICT; LEVYING SPECIAL ASSESSMENTS AGAINST PROPERTY WITHIN PHASE #1 OF THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, on October 5, 2023, a petition was submitted and filed with the City Secretary (the “City Secretary”) of the City of Wharton, Texas (the “City”) pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the “PID Act”), requesting the creation of a public improvement district in the City to be known as the Wharton Public Improvement District No. 2 (the “District”); and

WHEREAS, the petition contained the signatures of the owners of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then current ad valorem tax rolls of the Wharton Central Appraisal District, and the signatures of the property owners who owned taxable real property that constituted more than fifty percent of the area of all taxable property within the District that is liable for assessment; and

WHEREAS, on October 23, 2023, after due notice, the City Council of the City (the “City Council”) held a public hearing in the manner required by law on the advisability of the public improvements and services described in the petition as required by Section 372.009 of the PID Act and made the findings required by Section 372.009(b) of the PID Act and, by Resolution No. 2023-88 (the “Authorization Resolution”) adopted by a majority of the members of the City Council, authorized and created the District in accordance with its finding as to the advisability of the Authorized Improvements; and

WHEREAS, the Authorization Resolution provides that the authorization takes effect on the date the resolution is adopted, as required by law; and

WHEREAS, the Authorization Resolution was filed with the county clerk of Wharton County, as required by law; and

WHEREAS, no written protests regarding the creation of the District from any owners of record of property within the District were filed with the City Secretary; and

WHEREAS, on April 8, 2024, the City Council adopted a resolution approving a preliminary amended and restated service and assessment plan update, including a proposed assessment roll for Phase #1 of the District (the “Proposed Phase #1 Assessment Roll”); calling for a public hearing to consider an ordinance levying assessments on property within Phase #1 of the District (the “Assessments”); authorizing and directing the City Secretary to file the Proposed Phase #1 Assessment Roll and make such assessment roll available for public inspection; authorizing and directing the publication of notice of a public hearing to consider the levying of the Assessments against the property within Phase #1 of the District (the “Levy and Assessment Hearing”); authorizing and directing the mailing of notice of the Levy and Assessment Hearing to owners of property liable for assessment; and directing related action; and

WHEREAS, on April 9, 2024, the City Secretary filed the Proposed Phase #1 Assessment Roll and made the same available for public inspection; and

WHEREAS, the City Secretary, pursuant to Section 372.016(b) of the PID Act, published notice of the Levy and Assessment Hearing on May 1, 2024, in the *Wharton County Leader Journal*, a newspaper of general circulation in the City; and

WHEREAS, the City Secretary, pursuant to Section 372.016(c) of the PID Act, mailed the notice of the Levy and Assessment Hearing to the last known addresses of the owners of the property liable for the Assessments; and

WHEREAS, the City Council opened the Levy and Assessment Hearing on May 13, 2024, and at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Phase #1 Assessment Roll (as defined below), and the proposed Assessments, and to offer testimony pertinent to any issue presented on the amount of the Assessments, the allocation of the estimated costs of the Authorized Improvements to be undertaken for the benefit of the property located within Phase #1 (the “Phase #1 Projects”), the purposes of the Assessments, the special benefits of the Phase #1 Projects, and the penalties and interest on annual installments and on delinquent annual installments of the Assessments; and

WHEREAS, the City Council finds and determines that the Phase #1 Assessment Roll and the Wharton Public Improvement District No. 2 Service and Assessment Plan, dated May 13, 2024, in a form substantially similar to the attached *Exhibit A* hereto (as updated, the “Service and Assessment Plan”), and which is incorporated herein for all purposes, should be approved and that the Assessments should be levied as provided in this Ordinance and the Service and Assessment Plan and the assessment roll for Phase #1 attached thereto as Appendix F (the “Phase #1 Assessment Roll”); and

WHEREAS, the City Council further finds that there were no objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of the Actual Costs of the Phase #1 Projects (as described in the Service and Assessment Plan), the Phase #1 Assessment Roll, or the levy of the Assessments against the benefitted property within Phase #1 of the District; and

WHEREAS, the owners (the “Landowners”), or their representatives, of the majority of the privately-owned and taxable property located within Phase #1 of the District (the “Phase #1 Assessed Property”), the legal description of which is shown in Exhibit B, who are the persons to be assessed pursuant to this Ordinance, have indicated their approval of the Service and Assessment Plan, approval of the Phase #1 Assessment Roll, approval of this Ordinance, and approval of the levy of the Assessments against their property located within Phase #1 of the District; and

WHEREAS, the City Council closed the Levy and Assessment Hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, determined to proceed with the adoption of this Ordinance in conformity with the requirements of the PID Act.

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

**SECTION 1. Terms.**

Terms not otherwise defined herein are defined in the Service and Assessment Plan.

**SECTION 2. Findings.**

The findings and determinations set forth in the preambles hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section. The City Council hereby finds, determines, and ordains, as follows:

(a) The apportionment of the estimated Actual Costs of the Phase #1 Projects (as reflected in the Service and Assessment Plan) and the Administrative Expenses (as reflected in the Service and Assessment Plan) is fair and reasonable, reflects an accurate presentation of the special benefit each assessed parcel of the Phase #1 Assessed Property will receive from the construction of the Phase #1 Projects identified in the Service and Assessment Plan, and is hereby approved;

(b) The Service and Assessment Plan (i) covers a period of at least five years, (ii) defines the annual indebtedness and projected costs for the Phase #1 Projects, and (iii) includes a copy of the notice form required by Section 5.014 of the Texas Property Code, as amended. The Service and Assessment Plan has been reviewed and updated annually;

(c) The Service and Assessment Plan apportions the estimated Actual Costs of the Phase #1 Projects to be assessed against the Phase #1 Assessed Property as Assessments and such apportionment is made on the basis of special benefits accruing to the property because of the Phase #1 Projects;

(d) All of the real property in Phase #1 of the District which is being assessed in the amounts shown in the Phase #1 Assessment Roll will be benefited by the Phase #1 Projects proposed to be constructed as described in the Service and Assessment Plan, and each assessed parcel of Phase #1 Assessed Property will receive special benefits in each year equal to or greater

than each annual installment of the Assessment against such property and will receive special benefits during the term of the Assessments equal to or greater than the total amount assessed;

(e) The method of apportionment of the estimated Actual Costs of Phase #1 Projects and the Administrative Expenses set forth in the Service and Assessment Plan results in imposing equal shares of the estimated Actual Costs of the Phase #1 Projects and the Administrative Expenses on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the estimated Actual Costs of the Phase #1 Projects and the Administrative Expenses;

(f) The Service and Assessment Plan should be approved as the service plan and assessment plan for the District as described in Sections 372.013 and 372.014 of the PID Act;

(g) The Phase #1 Assessment Roll should be approved as the assessment roll for the Phase #1 Assessed Property within the District;

(h) The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Assessments, interest on Annual Installments, interest and penalties on delinquent Assessments and delinquent Annual Installments, and procedures in connection with the imposition and collection of Assessments should be approved and will expedite collection of the Assessments in a timely manner in order to provide the services and improvements needed and required for Phase #1 of the District; and

(i) A written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered, and formally acted upon.

### **SECTION 3. Service and Assessment Plan.**

The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the PID Act as the service and assessment plan for the District.

### **SECTION 4. Phase #1 Assessment Roll.**

The Phase #1 Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the PID Act as the assessment roll for Phase #1 of the District.

### **SECTION 5. Levy and Payment of Assessments for Estimated Costs of Phase #1 Projects.**

(a) The City Council hereby levies an assessment on each parcel of the Phase #1 Assessed Property (excluding Non-Benefitted Property, as described in the Service and Assessment Plan), as shown and described in the Service and Assessment Plan and the Phase #1

Assessment Roll, in the respective amounts shown on the Phase #1 Assessment Roll, as a special assessment on the properties set forth in the Phase #1 Assessment Roll.

(b) The levy of the Assessments shall be effective on the date of execution of this Ordinance levying the Assessments and strictly in accordance with the terms of the Service and Assessment Plan and the PID Act.

(c) The collection of the Assessments shall be as described in the Service and Assessment Plan and the PID Act.

(d) Each Assessment may be paid in a lump sum at any time or may be paid in Annual Installments pursuant to the terms of the Service and Assessment Plan.

(e) Each Assessment shall bear interest at the rate or rates specified in the Service and Assessment Plan.

(f) Each Annual Installment shall be collected each year in the manner set forth in the Service and Assessment Plan.

(g) The Administrative Expenses for the Phase #1 Assessed Property shall be calculated and collected pursuant to the terms of the Service and Assessment Plan.

#### **SECTION 6. Method of Assessment.**

The method of apportioning the estimated Actual Costs of the Phase #1 Projects and the Administrative Expenses is as set forth in the Service and Assessment Plan.

#### **SECTION 7. Penalties and Interest on Delinquent Assessments.**

Delinquent Assessments shall be made subject to the penalties, interest, procedures, and foreclosure sales set forth in the Service and Assessment Plan.

#### **SECTION 8. Prepayment of Assessments.**

As provided in Section F of the Service and Assessment Plan, the owner of any Phase #1 Assessed Property subject to an Assessment may prepay the Assessments levied by this Ordinance.

#### **SECTION 9. Lien Priority.**

The City Council and the Landowners intend for the obligations, covenants and burdens on the Landowners of each parcel of Phase #1 Assessed Property, including without limitation such Landowners' obligations related to payment of the Assessments and the Annual Installments thereof, to constitute covenants that shall run with the land. The Assessments and the Annual Installments thereof which are levied hereby shall be binding upon the Landowners, as the owners of each parcel of Phase #1 Assessed Property, and their respective transferees,



legal representatives, heirs, devisees, successors and assigns in the same manner and for the same period as such parties would be personally liable for the payment of ad valorem taxes under applicable law. The Assessments shall have lien priority as specified in the Service and Assessment Plan and the PID Act.

**SECTION 10. Appointment of an Administrator and Collector of Assessments.**

a. Appointment of Administrator.

MuniCap, Inc. is hereby appointed and designated to initially serve, or until otherwise determined by the City Council, as the Administrator of the Service and Assessment Plan and of the Assessments levied by this Ordinance. The Administrator shall perform the duties of the Administrator described in the Service and Assessment Plan, in this Ordinance, and in any contract between the City and the Administrator. The Administrator's fees, charges and expenses for providing such service shall constitute an Administrative Expense.

b. Appointment of Collector.

The Wharton County Tax Assessor/Collector is hereby appointed and designated as the collector of the Assessments.

**SECTION 11. Applicability of Tax Code.**

To the extent not inconsistent with this Ordinance, and not inconsistent with the PID Act or the other laws governing public improvement districts, the provisions of the Texas Tax Code shall be applicable to the imposition and collection of the Assessments by the City.

**SECTION 12. Filing in Land Records.**

The City Secretary or the Assistant City Secretary is directed to cause a copy of this Ordinance, including the Service and Assessment Plan and the Phase #1 Assessment Roll, to be recorded in the real property records of Wharton County, not later than the seventh day after the date the City Council adopts this Ordinance approving the Service and Assessment Plan. The City Secretary or the Assistant City Secretary is further directed to similarly file each Annual Service Plan Update approved by the City Council not later than the seventh day after the date that the City Council approves each Annual Service Plan Update.

**SECTION 13. Severability.**

If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity or

any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

**SECTION 14.**    **Effective Date.**

This Ordinance shall take effect and be in force immediately from and after its adoption on the date shown below in accordance with Texas Government Code, Section 1201.028, as amended.

*[Signature page to follow]*

PASSED AND APPROVED, this the 13<sup>th</sup> day of May, 2024.

CITY OF WHARTON, TEXAS

\_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Paula Favors, City Secretary

(City Seal)

STATE OF TEXAS                   §  
   §  
COUNTY OF WHARTON       §

This instrument was acknowledged before me on the \_\_\_\_ day of 2024, by \_\_\_\_\_,  
Mayor of the City of Wharton, Texas on behalf of said City.

\_\_\_\_\_  
Notary Public, State of Texas

(SEAL)

*[Signature page to City Ordinance]*

**EXHIBIT A**  
**SERVICE AND ASSESSMENT PLAN**

**EXHIBIT B**

**PHASE #1 LEGAL DESCRIPTION**

October 13, 2023

***18.6867 acres of land in the Randal Jones 1/2 League, Abstract No. 36,  
Wharton County, Texas***

A FIELD NOTE DESCRIPTION of a 18.6867 acre (813,995 square feet) tract of land in the Randal Jones 1/2 League, Abstract No. 36, Wharton County, Texas; said 18.6867 acre tract being out of a 51.6733 acre tract of land and a 3.8067 acre tract of land conveyed to Wharton 55, LLC, as recorded in Book 1288, Page 914 and Book 1288, Page 920 of the Wharton County Deed Records; said tract being more particularly described by metes-and-bounds as follows with the bearings being based on Texas State Plane Coordinate System, South Central Zone (NAD83) per GPS Observations using National Geodetic Survey Continuously Operating Reference Stations:

BEGINNING at a 1/2-inch iron rod found in the southeast right-of-way line of F.M. 1299 (South Alabama Road) (called 80 feet wide), as recorded in Volume 802, Page 787 of the Wharton County Deed Records for the west corner of a 15.00 acre tract of land conveyed to Bichhop T. Le, as recorded in Volume 794, Page 547 of the Wharton County Deed Records, for a north corner of said 51.6733 acre tract and for a north corner of this tract;

THENCE, South 73° 40' 17" East – 727.16 feet with the southwest line of said 15.00 acre tract and with a northeast line of said 51.6733 acre tract to a 5/8-inch iron rod with cap found for the south corner of said 15.00 acre tract, for an interior corner of said 51.6733 acre tract, and for an interior corner of this tract;

THENCE, North 16° 48' 36" East – 898.55 feet with the southeast line of said 15.00 acre tract and with a northwest line of said 51.6733 acre tract to a 1/2-inch iron rod found for the east corner of said 15.00 acre tract, for the south corner of a called 5.698 acre tract of land conveyed to Robert L. Lebow, Leonard C. Lebow and David I. Lebow, as recorded in Volume 824, Page 719 of the Wharton County Deed Records, for an angle point of said 51.6733 acre tract, and for an angle point of this tract;

THENCE, North 16° 21' 39" East - 164.23 feet with the southeast line of said 5.698 acre tract and with a northwest line of said 51.6733 acre tract to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for a north corner of this tract; from which a 5/8-inch iron rod found for the west corner of said 3.8067 acre tract and for a north corner of said 51.6733 acre tract bears North 16° 21' 39" East – 24.45 feet; also from which a 1/2-inch iron rod found in the southwest right-of-way line of State Highway 60 (Milam Street) (width varies) for the north corner of said 3.8067 acre tract and for the east corner of said 5.698 acre tract bears North 16° 21' 39" East – 375.31 feet;

THENCE, South 73° 38' 20" East - 37.20 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, South 86° 46' 23" East - 154.80 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, South 73° 35' 48" East - 189.35 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an east corner of this tract;

THENCE, South 16° 24' 12" West - 89.31 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an interior corner of this tract;

THENCE, South 68° 57' 54" East - 50.16 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an interior corner of this tract;

THENCE, North 16° 24' 12" East - 101.46 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for a north corner of this tract;

THENCE, South 70° 34' 44" East - 195.02 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, South 38° 42' 55" East - 42.91 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, South 73° 43' 35" East - 24.74 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set in the southeast line of said 51.6733 acre tract and in the northwest line of a 1.000 acre tract of land conveyed to Pohler Real Estate Investments, LLC, as recorded in Volume 1120, Page 404 of the Wharton County Deed Records and for an east corner of this tract; from which a 1/2-inch iron rod found for a north corner of said 1.000 acre tract and for the west corner a 0.9918 acre tract of land conveyed to Pohler Real Estate Investments, LLC, as recorded in Volume 1120, Page 404 of the Wharton County Deed Records bears North 16° 16' 24" East - 121.11 feet; also from which a 5/8-inch iron rod with cap stamped "McKim & Creed" set in the southwest right-of-way line of said State Highway 60 for the north corner of said 0.9918 acre tract bears North 16° 16' 24" East - 329.52 feet;

THENCE, South 16° 16' 24" West - 18.15 feet with the northwest line of said 1.000 acre tract and with a southeast line of said 51.6733 acre tract to a 1/2-inch iron rod found for the west corner of said 1.000 acre tract, for an interior corner of said 51.6733 acre tract and for an interior corner of this tract;

THENCE, South 70° 26' 42" East - 49.98 feet with the southwest line of said 1.000 acre tract and with a northeast line of said 51.6733 acre tract to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for the east corner of this tract; from which a 1/2-inch iron rod found for the south corner of said 1.000 acre tract and for the west corner of Lot 1, Subdivision Of Lot 24M, according to the map or plat recorded in Slide No. 3030 of the Wharton County Plat Records bears South 70° 26' 42" East - 200.03 feet;

THENCE, South 19° 25' 16" West - 706.30 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for a south corner of this tract;

THENCE, North 70° 34' 44" West - 91.77 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an interior corner of this tract;

THENCE, South 19° 25' 16" West - 170.00 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for a south corner of this tract;

THENCE, North 70° 34' 44" West - 409.61 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an interior corner of this tract;

THENCE, South 16° 47' 04" West - 19.57 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for the point-of-curvature of a curve to the left;

THENCE, in a southwesterly direction with said curve to the left having a radius of 575.00 feet, a central angle of 12° 48' 50", a length of 128.60 feet, and a chord bearing South 10° 22' 39" West - 128.33 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for a point-of-compound curvature;

THENCE, in a southeasterly direction with a curve to the left having a radius of 25.00 feet, a central angle of 94° 16' 36", a length of 41.14 feet, and a chord bearing South 43° 10' 04" East - 36.65 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for a northeast corner of this tract;

THENCE, South 00° 18' 22" East - 70.00 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for a southeast corner of this tract;

THENCE, South 89° 41' 38" West - 76.53 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for the point-of-curvature of a curve to the right;

THENCE, in a northwesterly direction with a curve to the right having a radius of 640.00 feet, a central angle of 08° 54' 57", a length of 99.59 feet, and a chord bearing North 85° 50' 54" West - 99.49 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an interior corner of this tract;

THENCE, South 08° 36' 34" West - 100.00 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, South 53° 36' 34" West - 21.21 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, North 81° 23' 26" West - 35.82 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, North 73° 41' 18" West - 422.80 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;



THENCE, North 78° 27' 49" West - 86.88 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, North 85° 26' 27" West - 40.00 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, North 40° 26' 27" West - 21.21 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an angle point of this tract;

THENCE, North 04° 33' 33" East - 100.00 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an interior corner of this tract;

THENCE, North 85° 26' 27" West - 13.04 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for the point-of-curvature of a curve to the right;

THENCE, in a westerly direction with said curve to the right having a radius of 310.00 feet, a central angle of 11° 45' 09", a length of 63.59 feet, and a chord bearing North 79° 33' 53" West - 63.48 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for a point-of-tangency;


THENCE, North 73° 41' 18" West - 106.44 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for an interior corner of this tract;

THENCE, South 16° 50' 12" West - 253.70 feet to a 5/8-inch iron rod with cap stamped "McKim & Creed" set in the northeast line of Briar Grove Trailer Park, Lot One (1), Briar Grove Addition, Sec. 2, according to the map or plat recorded in Slide No. 120A of the Wharton County Plat Records and for a south corner of this tract;

THENCE, North 70° 33' 05" West - 10.01 feet with the northeast line of said Briar Grove Trailer Park, Lot One (1), Briar Grove Addition, Sec. 2 to a 5/8-inch iron rod with cap stamped "McKim & Creed" set in the southeast right-of-way line of said F.M. 1299 for the north corner of said Briar Grove Trailer Park, Lot One (1), Briar Grove Addition, Sec. 2 and for a west corner of this tract;

THENCE, North 16° 50' 12" East - 363.38 feet with the southeast right-of-way line of said F.M. 1299 to the POINT OF BEGINNING and containing 18.6867 acre (813,995 square feet) of land.


COMPILED BY:  
MCKIM & CREED  
Engineers, Surveyors, Planners  
Stafford, Texas  
Firm Registration No. 10177600  
Job No. 09208-0001  
Y:\legals\09208-0001\_Sec\_1.docx

  
Robert Chris Kelly  
Registered Professional Land Surveyor  
State of Texas No. 6833



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

## FINANCE COMMITTEE

Meeting Date:	5/13/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council approving an agreement for benefits consulting services and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement.
<p>Over the last several years, the City of Wharton has seen large increases in health insurance premiums through the TX Health Benefits Pool, and it is believed that this year will not be an exception.</p> <p>With many cities going out to the health insurance market now, the City Staff is requesting to contract with a company to issue a Request for Proposals (RFP).</p> <p>Bidding out services for health insurance is crucial for several reasons:</p> <ol style="list-style-type: none"><li>1. <b>Cost Efficiency:</b> By soliciting bids from multiple providers, the City can compare prices and negotiate better rates for healthcare services.</li><li>2. <b>Quality Assurance:</b> Bidding out services allows the City to evaluate the quality of healthcare providers and allow ease of access to our employees.</li><li>3. <b>Transparency and Accountability:</b> Providers must submit detailed proposals outlining their services, costs, and performance metrics, which helps ensure accountability and fairness in the selection process.</li></ol> <p>Overall, bidding out services for health insurance promotes competition, drives down costs, improves quality, and expands access to healthcare services, ultimately benefiting both insurers and their members.</p>			
City Manager: Joseph R. Pace			Date: Thursday, May 9, 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: May 6, 2024

From: Paula Favors, TRMC, CPM, City Secretary

To: Joseph R. Pace, City Manager

Subject: Professional Services for Employee Benefits

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Over the last several years the City of Wharton has seen large increases in health insurance premiums through the TX Health Benefits Pool and it is believed that this year will not be an exception.

With many cities going out to the health insurance market now, the City staff is requesting to contract with a company to issue a Request for Proposals (RFP).

Bidding out services for health insurance is crucial for several reasons:

1. **Cost Efficiency:** By soliciting bids from multiple providers, the City can compare prices and negotiate better rates for healthcare services.
2. **Quality Assurance:** Bidding out services allows the City to evaluate the quality of healthcare providers and allow ease of access to our employees.
3. **Transparency and Accountability:** Providers are required to submit detailed proposals outlining their services, costs, and performance metrics, which helps ensure accountability and fairness in the selection process.

Overall, bidding out services for health insurance promotes competition, drives down costs, improves quality, and expands access to healthcare services, ultimately benefiting both insurers and their members.

The Finance Committee will meet and review proposals from HUB International and Higginbotham to provide RFP services and possible assistance with the problems of benefits with the contracted insurance vendor.

If you have any questions, please contact Paula Favors at (979) 532-2491 Ext. 225. Thank you.

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

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT FOR BENEFITS CONSULTING SERVICES 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 \_\_\_\_\_ to provide Benefits Consulting Services; and,

**WHEREAS,** \_\_\_\_\_ wishes to provide said services for the City of Wharton Employee Benefits and,

**WHEREAS,** The City of Wharton and \_\_\_\_\_ wishes to be bound by the conditions of said professional 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 services agreement with \_\_\_\_\_ for City of Wharton Employee Benefits.

**Section II.** The City of Wharton and \_\_\_\_\_ 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 13th day of May 2024.

**CITY OF WHARTON, TEXAS**


**By: \_\_\_\_\_**  
**TIM BAKER**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

## FINANCE COMMITTEE

Meeting Date:	5/13/2024	Agenda Item:	Ordinance: An ordinance declaring a public necessity for rights of entry and/or acquisition to the below listed properties located in Wharton, Texas, for a public purpose, namely for geotechnical studies, appraisal, surveying, environmental assessments and borings and/or acquisition, to include fee simple acquisition, public drainage, and levee easements for the Lower Colorado River Basin Phase II, Texas, Wharton Flood Risk Management Project; ratifying and affirming all prior acts and proceedings done or initiated by attorneys and employees of the City to acquire such rights of entry/acquisitions for the property; authorizing all other lawful action necessary or incidental to such rights of entry/acquisitions.
<p>The City of Wharton has been working with the United States Army Corps of Engineers (USACE) on the Wharton Colorado Levee Project. The USACE has been working to complete the design of Phase II. The City has received authorization from the USACE to begin partial Phase II acquisitions.</p> <p>Attached is the notice to proceed with the acquisitions for Phase II. The authorization for these properties is in the northernmost area of the project and will potentially be the longest acquisition process.</p> <p>Also attached is the authorization from the USACE. This notice was required prior to any acquisition to be eligible for reimbursement from the USACE.</p> <p>As a requirement for acquisition, if the property owners are not willing to work with or negotiate with the City, the City needs to have a Public Purpose Ordinance in place. The draft ordinance is attached.</p> <p>Director of Planning &amp; Development Gwyn Teves will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, May 9, 2024
Approval: 			
Mayor: Tim Barker			



# City of Wharton

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

## MEMORANDUM

**DATE:** May 8, 2024  
**FROM:** Gwyneth Teves, Director of Planning & Development  
**TO:** Joseph R. Pace, City Manager  
**SUBJECT:** Wharton Colorado Levee Phase II Public Purpose Ordinance

---

The City of Wharton has been working with the US Army Corps of Engineers on the Wharton Colorado Levee Project. USACE has been working to complete the design of Phase II. The City has received authorization from USACE to begin partial Phase II acquisitions. Attached is the notice to proceed with the acquisitions for Phase II. The authorization for these properties is in the northernmost area of the project and will potentially be the longest acquisition process.

Attached is the authorization from USACE. This notice was required prior to any acquisition in order to be eligible for reimbursement from USACE.

As a requirement for acquisition, if the property owners are not willing to work with or negotiate with the City, the City needs to have a Public Purpose Ordinance in place. A draft ordinance is attached.

If you should have any questions, please contact me at 979-532-2491 ext. 238. Thank You.



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT  
P.O. BOX 17300  
FORT WORTH, TX 76102-0300

May 6, 2024

Real Estate Division

SUBJECT: Notice to Proceed with Real Estate Acquisition – Wharton Phase II,  
Segments 6 and 6b

Ms. Gwyneth Teves  
Director of Planning & Development  
City of Wharton  
120 E. Caney Street  
Wharton, Texas 77488

Dear Ms. Teves:

This letter serves as the notice to proceed with the acquisition of real estate for Segments 6 and 6b of the Wharton Flood Risk Management Project, Phase II. Enclosed within this letter are maps detailing the real estate requirements and a tract register, which identifies the estate to be acquired for each tract. A copy of the estate is also included.

If you have any questions about the acquisition, please contact Ms. Danielle Hughes, 817-886-1210.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shane P. Demmer", is written over a horizontal line.

Shane P. Demmer  
Chief, Real Estate Division  
Fort Worth District

Enclosures

Estate to be Acquired:

### **Flood Protection Levee Easement**

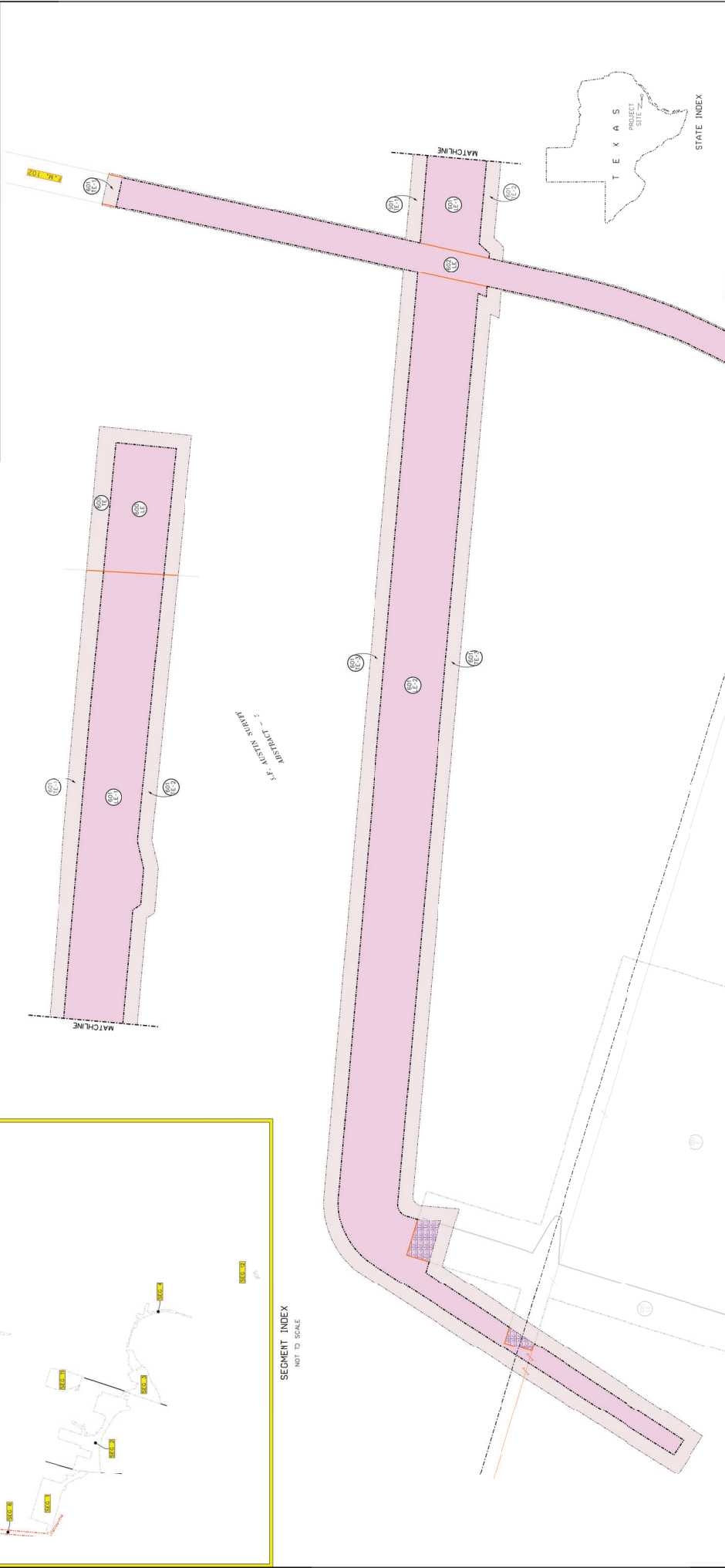
A perpetual and assignable right and easement in (the land described in Schedule A) (Tracts Nos. \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_) to construct, maintain, repair, operate, patrol and replace a flood protection levee, including all appurtenances thereto; reserving, however, to the owners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

### **Temporary Work Area Easement**

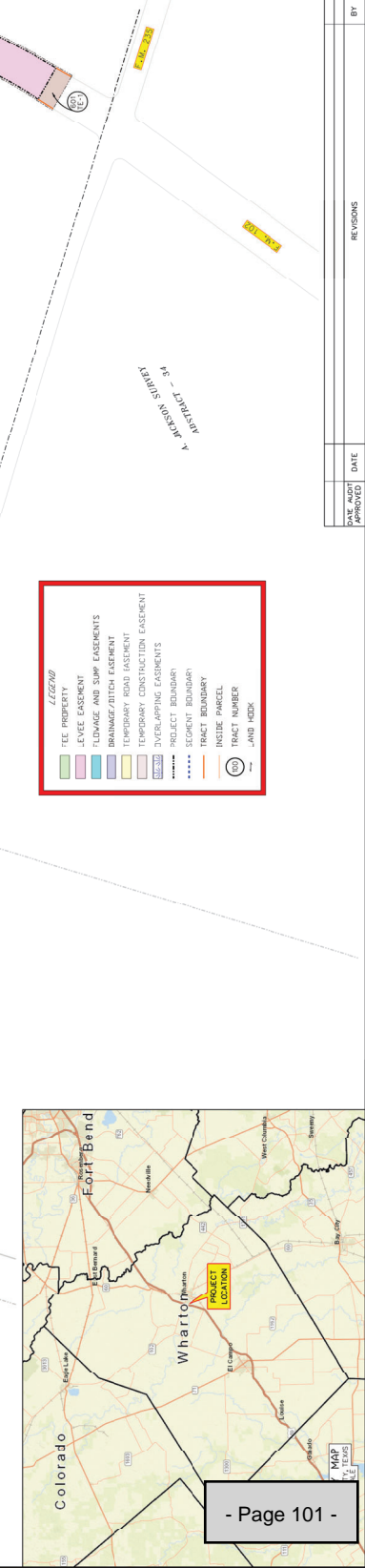
A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_), for a period not to exceed \_\_\_\_\_, beginning with date possession of the land is granted to the \_\_\_\_\_ (non-Federal Sponsor) for use by the \_\_\_\_\_ (non-Federal Sponsor), its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies) and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Wharton Flood Damage Reduction Project, together with the right to trim, cut, fell and remove there from all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.



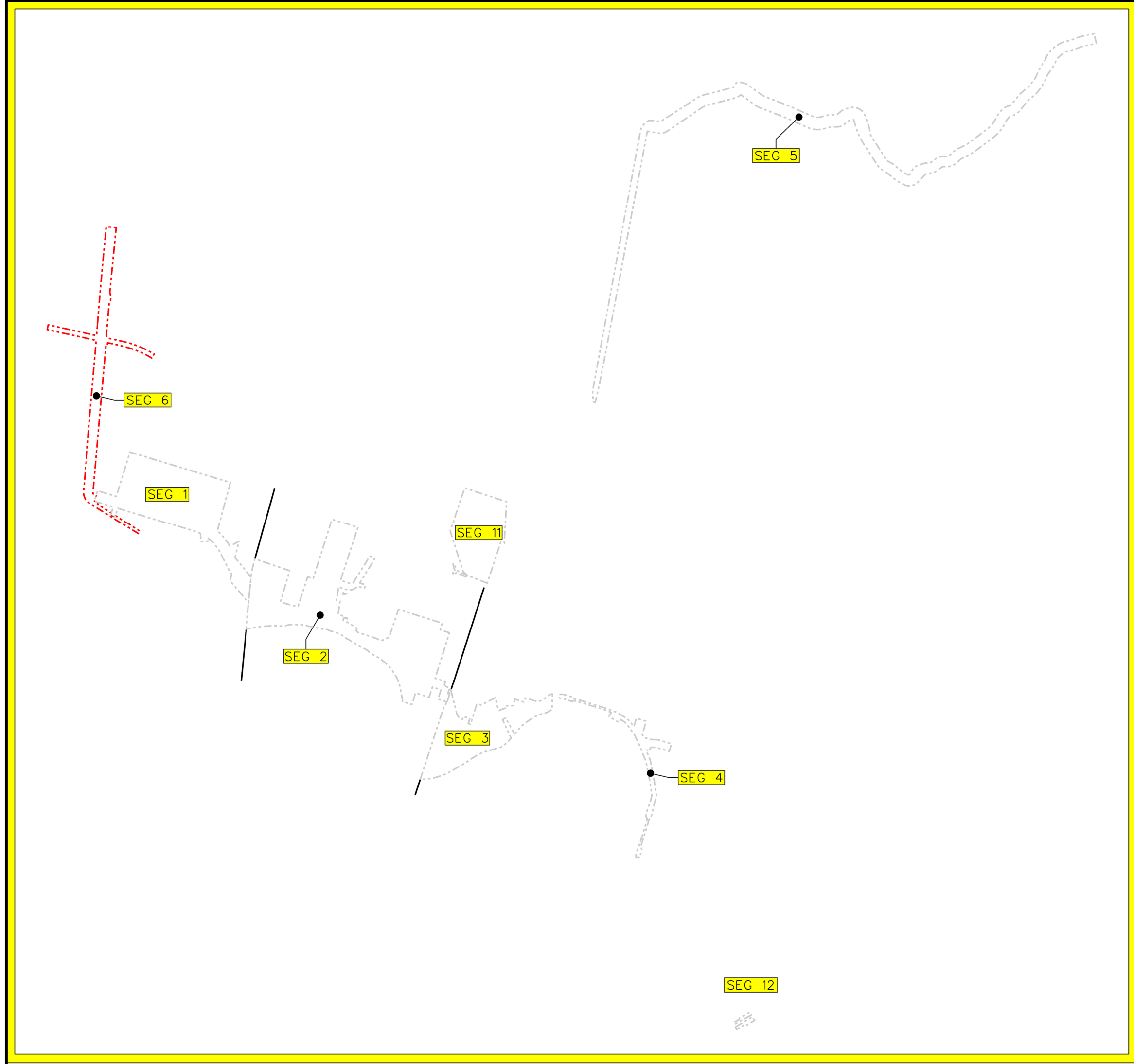
TRACT REGISTER			
TRACT	LANDOWNER	ACRES	REMARKS
ROUTE 1	ACRES AND	2.19	LEVEE ESMT AKA WHARTON CO. APPRAISAL DIST. #4278
ROUTE 1	ACRES AND	1.51	TEMP CONST ESMT FROM ----- TO ----- AKA WHARTON CO. APPRAISAL DIST. #4278
ROUTE 1	ACRES AND	9.25	LEVEE ESMT AKA WHARTON CO. APPRAISAL DIST. #27591
ROUTE 2	ACRES AND	19.27	LEVEE ESMT AKA WHARTON CO. APPRAISAL DIST. #27591, 68878, 68879, 68878 & 68879
ROUTE 2	ACRES AND	2.44	TEMP CONST ESMT FROM ----- TO ----- AKA WHARTON CO. APPRAISAL DIST. #27591
ROUTE 2	ACRES AND	2.37	TEMP CONST ESMT FROM ----- TO ----- AKA WHARTON CO. APPRAISAL DIST. #27591
ROUTE 2	ACRES AND	1.49	TEMP CONST ESMT FROM ----- TO ----- AKA WHARTON CO. APPRAISAL DIST. #27591
ROUTE 2	ACRES AND	5.41	TEMP CONST ESMT FROM ----- TO ----- AKA WHARTON CO. APPRAISAL DIST. #27591
ROUTE 2	ACRES AND	0.12	TEMP CONST ESMT FROM ----- TO ----- AKA WHARTON CO. APPRAISAL DIST. #27591
ROUTE 2	ACRES AND	0.12	TEMP CONST ESMT FROM ----- TO ----- AKA WHARTON CO. APPRAISAL DIST. #27591



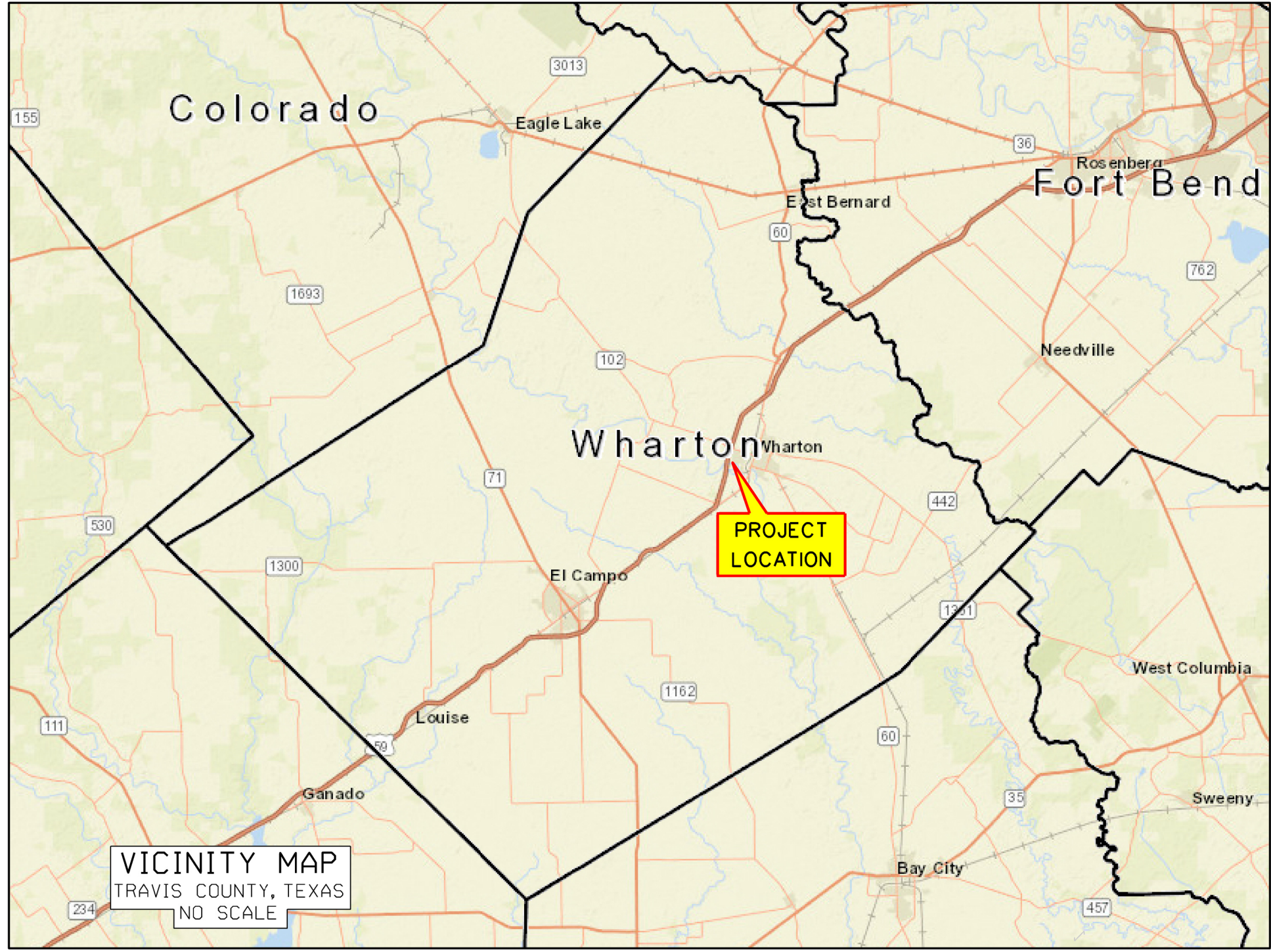
SHEET 4 OF 4	
ACQUISITION AUTHORIZATION	
PROJECT MAP	
DEPT OF THE ARMY	
STATE LOCATION OF PROJECT	
DISTRICT	
ADDITIONAL DATA	
CITY OF WHARTON	
SEGMENT "16"	
OFFICE OF THE DISTRICT ENGINEER	
SOUTHWESTERN DIVISION	
DRAWN BY	
CHECKED BY	
SUBMITTED BY	
LEAD RELY DECAL	
RECOMMENDED BY	
APPROVED BY	
DATE	
SHEET 4 OF 4	
BY	
INSTALLATION OR PROJECT NO.	
REVISIONS	
DATE	
APPROVED	







SEGMENT INDEX  
NOT TO SCALE



LEGEND

FEE PROPERTY

LEVEE EASEMENT

FLOWAGE AND SUMP EASEMENTS

DRAINAGE/DITCH EASEMENT

TEMPORARY ROAD EASEMENT

TEMPORARY CONSTRUCTION EASEMENT

OVERLAPPING EASEMENTS

PROJECT BOUNDARY

SEGMENT BOUNDARY

TRACT BOUNDARY

INSIDE PARCEL

100

TRACT NUMBER

LAND HOOK

A. JACKSON SURVEY  
ABSTRACT - 34

STATE INDEX

S.F. AUSTIN SURVEY  
ABSTRACT - 3

SEGMENT 6

TRACT 104

TRACT 103

55

SEC 6 FLOOD CONTROL ACT OF 1936 ACQUISITION AUTHORIZATION			
PROJECT MAP			
DEPT. OF THE ARMY LOCATION OF PROJECT		DEPT. OF THE ARMY TRANSPORTATION FACILITIES	
STATE TEXAS		RAILROADS KANSAS CITY SOUTHERN	
COUNTY WHARTON		STATE ROADS 59	
DIVISION SOUTHWESTERN		FEDERAL ROADS	
DISTRICT FORT WORTH		AIRLINES	
ARMY AREA 5TH			
CITY OF WHARTON			
SEGMENT "6B"			
DEPARTMENT OF THE ARMY OFFICE OF THE FORT WORTH DISTRICT ENGINEER SOUTHWESTERN DIVISION			
DRAWN BY: FDM		REAL ESTATE COLORADO RIVER FLOOD CONTROL PROJECT (PH II) WHARTON, TEXAS	
TRACED BY:			
CHECKED BY:			
SUBMITTED BY:			
LEAD REALTY SPECIALIST		APPROVED BY	
RECOMMENDED BY		DATE 14 FEBRUARY 2024	
CORP TECH RESOURCE BR			
US ARMY CORPS OF ENGINEERS, WASH DC 20314		SCALE IN FEET 130 0 130 260	
DATE AUDIT APPROVED		DATE	
REVISIONS		BY	
INSTALLATION OR PROJECT NO.		SHEET 1 OF 1 DRAWING NO.	



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

**AN ORDINANCE DECLARING A PUBLIC NECESSITY FOR RIGHTS OF ENTRY AND/OR ACQUISITION TO THE BELOW LISTED PROPERTIES LOCATED IN WHARTON, TEXAS, FOR A PUBLIC PURPOSE, NAMELY FOR GEOTECHNICAL STUDIES, APPRAISAL, SURVEYING, ENVIRONMENTAL ASSESSMENTS AND BORINGS AND/OR ACQUISITION, TO INCLUDE FEE SIMPLE ACQUISITION, PUBLIC DRAINAGE, AND LEVEE EASEMENTS FOR THE LOWER COLORADO RIVER BASIN PHASE II, TEXAS, WHARTON FLOOD RISK MANAGEMENT PROJECT; RATIFYING AND AFFIRMING ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS AND EMPLOYEES OF THE CITY TO ACQUIRE SUCH RIGHTS OF ENTRY/ACQUISITIONS FOR THE PROPERTY; AUTHORIZING ALL OTHER LAWFUL ACTION NECESSARY OR INCIDENTAL TO SUCH RIGHTS OF ENTRY/ACQUISITIONS.**

**WHEREAS,** The City of Wharton, Texas, has determined that the tract(s) or parcel(s) of land, hereinafter described, are required for investigation/acquisition for the City public works Levee flood control improvements; and,

**WHEREAS,** The City may be unable to obtain rights of entry/acquire or purchase fee simple interest, public drainage, or levee easements in said parcel(s) by negotiation, and the City would then be compelled to exercise its power of eminent domain.

**NOW BE IT ORDAINED BY THE WHARTON CITY COUNCIL that:**

**SECTION I. AUTHORIZATION.** The City Attorney, Paul Webb, and the Special Legal Counsel of the City, Winstead P. C., is hereby authorized and funded to prepare appropriate legal documents and enter appropriate negotiations for the right to enter and/or acquisition of the properties described in Exhibit "A". Failing such final attempt at negotiation, Special Legal Counsel is hereby authorized to initiate eminent domain condemnation proceedings in a court of competent jurisdiction in Wharton County, Texas on behalf of the City to obtain rights of entry and/or fee simple ownership of said parcel(s).

**SECTION II. PUBLIC NECESSITY.** The City Council of Wharton, Wharton County, Texas, declares that a public necessity exists for the City of Wharton to obtain rights of entry and/or acquire the real property located in Wharton County, Texas, and described in Exhibit "A" attached hereto and made a part hereof. The City Attorney, Paul Webb, and Special Legal Counsel, Winstead P.C., are hereby directed to finally determine the owner(s) of said real property, coordinate with the Wharton City Manager in an attempt to finally negotiate the right of entry and/or purchase or grant of a fee simple interest in and to said properties in Exhibit "A"; and failing such effort at final negotiation, to institute and prosecute to conclusion, an eminent domain condemnation suit against the known and/or unknown owner(s) of said property and against any and all other person(s) and legal entities who own or claim any interest in said lands; and to obtain

the right to enter and/or acquire the real estate for the City of Wharton for use as a public flood control Levee.

**SECTION III. INCORPORATION OF RECITALS.** The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct and incorporates such recitals as findings of fact.

**SECTION IV. SEVERABILITY.** If any provision of this Ordinance or the application hereof to any circumstance shall ever be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the governing body hereby declares that this Ordinance would have been enacted without such invalid provision; and that in lieu of each clause or provision of this Ordinance that is deemed invalid, illegal, or unenforceable, there then will be added by the Mayor as necessary, with the approval of the City Manager and City Attorney as to form and legality, and as a part of the Ordinance, a substitute or additional clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be legally possible, valid and enforceable.

**SECTION V. EFFECTIVE DATE.** This Ordinance shall become effective immediately following its passage.

**SECTION VI. OPEN MEETINGS.** The City finds that this Ordinance was discussed, considered, and appropriate action was taken upon it in accordance with the Texas Open Meetings Act requirements of Texas law, set forth in Tex. Gov't Code Ann. as amended, Title 5, Chapter Sec. 551.001 et seq.

**PASSED AND ADOPTED** this the 13<sup>th</sup> day of May 2024.

**CITY OF WHARTON**

\_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**PAUL WEBB**  
City Attorney

## Exhibit "A"

R062178	A20003 ABST.3 TRACT 33D
R027591	A20003 ABST.3 TRACT 33 PT (NORTH)
R068876	A20003 ABST.3 TRACT 33PT (SOUTH) & 33RR
R068875	A20034 ABST.34 TRACT 69 PT (SOUTH) & 86RR
N/A	TXDOT & WHARTON COUNTY FM 102

DRAFT