



**CITY OF WHARTON  
CITY COUNCIL FINANCE COMMITTEE  
MEETING**

**Monday, November 25, 2019  
5:30 PM**


***CITY HALL***

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

Notice is hereby given that a City Council Finance Committee Meeting will be held on Monday, November 25, 2019 at 5:30 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 21st day of November 2019.


By:   
Andres Garza, Jr., City Manager

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council 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 November 21, 2019, 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 21st day of November.

**CITY OF WHARTON**

By:   
Paula Favors  
City Secretary



**A G E N D A**  
**CITY OF WHARTON**  
**City Council Finance Committee Meeting**  
**Monday, November 25, 2019**  
**City Hall - 5:30 PM**

**Call to Order.**

**Roll Call.**

**Public Comments.**

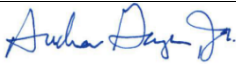
**Review & Consider:**

1. Minutes from the meeting held November 12, 2019.
2. Ordinance: An ordinance approving an amendment to the City of Wharton Budget October 1, 2019 – September 30, 2020.
3. City of Wharton Annual Financial Report for Fiscal Year October 1, 2017 to September 30, 2018 by Harrison, Waldrop & Uherek, L.L.P.
4. Resolution: A resolution of the Wharton City Council adopting the City of Wharton Investment Policy after the Annual Review of City of Wharton Investment Policy and setting an effective date.
5. Resolution: A resolution of the Wharton City Council extending the Customer-Developer Sewer Service Agreement with Eric Muegge and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement and setting an effective date.

**Adjournment.**

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

## FINANCE COMMITTEE

Meeting Date:	11/25/2019	Agenda Item:	Minutes from the meeting held November 12, 2019.
Attached are a copy of the draft minutes from the meeting held November 12, 2019.			
City Manager: Andres Garza, Jr.		Date: Thursday, November 21, 2019	
Approval: 			
Mayor: Tim Barker			

**MINUTES  
OF  
CITY OF WHARTON  
CONSULTANT SELECTION COMMITTEE AND FINANCE COMMITTEE MEETING  
120 EAST CANEY STREET  
WHARTON, TEXAS 77488  
Tuesday, November 12, 2019 –6:00 p.m.**

City Manager Andres Garza, Jr. declared a meeting of the City Council Consultant Selection Committee and Finance Committee duly open for the transaction of business at 6:09 p.m.

Committee Members present were: Councilmember Alice Heard, Councilmember Russell Machann and Mayor Tim Barker.

Committee Member absent was: None.

City Council Member present was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anandel and Community Development Director Gwyn Teves.

Staff member absent was: Assistant to the City Manager Brandi Jimenez.

Visitors: None.

Public Comments. There were no public comments.

The first item on the agenda was to review and consider the minutes from the meeting held October 28, 2019. Councilmember Russell Machann made a motion to approve the minutes as presented. Councilmember Heard seconded. All voted in favor.

The second item on the agenda was to review and consider request by Our Lady of Mount Carmel Church for exchange of properties-Guadalupe Park. City Manager Andres Garza, Jr. stated to the Committee that he had received a letter from Rev. Antonio Perez regarding the property swap between the City of Wharton and Our Lady of Mount Carmel Church. He stated that the City is interested in acquiring ownership of Guadalupe Park which is owned by Reverend David Fellhauer for the use and benefit of Our Lady of Mount Carmel Church. He stated that in return the church was requesting that the City transfer ownership of R020840 Mt. Carmel Block 1 Lot 17, 18 to Our Lady of Mount Carmel Church. The City pave the above mentioned lots and Mt. Carmel Block 1, Lots 1, 2, 19, 20 to serve as parking for Our Lady of Mount Carmel Church. Our Lady of Mount Carmel Church is requesting that the sidewalk in from of the church on South East Avenue be paved. The Diocese Policy requires that they retain the mineral rights when selling or transferring real property and to obtain mineral rights when purchasing or receiving real property. After some discussion, no action was taken.

The third item on the agenda was to review and consider Resolution: A resolution of the Wharton City Council approving a contract for disaster debris removal monitoring and authorizing the Mayor of the City of Wharton to execute all documents related to said contract and setting an effective date. Community Development Coordinator Gwyn Teves stated to the Committee bids were received on November 5, 2019 for disaster debris removal monitoring for the City of Wharton. She stated a total of three bids were received. She stated that they were as follows:

1. Tetra Tech.
2. Thompson Engineering.
3. TLC Engineering.

The Committee scored and ranked the bids received. After some discussion Councilmember Russell Machann made a motion to recommend to the City Council to award a contract to Tetra Tech for disaster debris removal monitoring and have Thompson Engineering as the secondary. Councilmember Heard seconded. All voted in favor.

The fourth item on the agenda was to review and consider FM 1301 and Railroad Overpass Project Financing. The Committee discussed the financing options for the FM 1301 and Railroad Overpass Project. No action was taken.

The fifth item on the agenda was adjournment. Mayor Tim Barker moved to adjourn. Councilmember Russell Machann seconded the motion. All voted in favor.

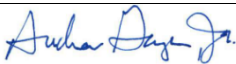
The meeting adjourned at 6:55 p.m.

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Andres Garza, Jr., City Manager

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

## FINANCE COMMITTEE

Meeting Date:	11/25/2019	Agenda Item:	<b>Ordinance:</b> An ordinance approving an amendment to the City of Wharton Budget October 1, 2019 – September 30, 2020.
<p>Finance Director Joan Andel will present the City of Wharton Budget Adjustments for fiscal year October 1, 2019 through September 30, 2020 during the meeting.</p> <p>The City Council Finance Committee will meet on Monday, November 25, 2019 at 5:30 p.m. to review the amendments and formulate a recommendation to the City Council.</p>			
City Manager: Andres Garza, Jr.		Date: Thursday, November 21, 2019	
Approval: 			
Mayor: Tim Barker			



# City of Wharton

120 E. Caney Street ° Wharton, TX  
77488

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

## MEMORANDUM

To: Mr. Andres Garza, Jr.  
City Manager

From: Joan Andel

Date: November 19, 2019

Re: Budget Adjustments

Due to the signing of the Colorado Bend II Industrial Agreement dated October 10, 2019, I recommend the following budget adjustment for FY2020:

1. A one- time salary adjustment of \$500 per full-time employee with a hire date prior to November 25, 2019. Based on ninety-six (96) full time employees, this amount would equal \$48,000 payable on December 13, 2019.
2. A 2% salary increase for all employees payable January 8, 2020 totaling approximately \$75,000.

Total for both is approximately \$123,000.

I would like to submit this request to the Finance Committee on Monday, November 25, 2019 for approval. If approved, to also be placed on the City Council agenda on the same date.

Please contact me, should you have any further questions.

Thank you.





# City of Wharton

120 E. Caney Street ° Wharton, TX  
77488

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

## MEMORANDUM

To: Mr. Andres Garza, Jr.  
City Manager

From: Joan Anandel

Date: November 19, 2019

Re: City Council members expense reimbursement and meeting compensation

At the Finance Committee meeting held on October 28, 2019, the Committee asked City Staff to research increasing the City Council members expense reimbursement and meeting compensation. Currently the rate is a \$100 monthly expense reimbursement per person and a \$20 per meeting compensation for attendance. The Mayor receives an additional \$50 per month for performance of additional duties. This meeting compensation rate was set out in the City Charter in 1994 and was to remain the same for two years. After that time, the rate could change with City Council public notice and approval.

In researching this matter, I have come up with three possible options for consideration:

1. Monthly expense reimbursement to remain the same \$100, with meeting compensation to be paid at \$50 per meeting. Total for average 2 meetings per month would equal \$200.
2. Monthly expense reimbursement to change to \$175 per month, with meeting compensation to remain at \$20 per meeting. Total for average 2 meetings per month would equal \$215.
3. Monthly expense reimbursement to change to \$150 per month, with meeting compensation to change to \$25 per meeting. Total for average 2 meetings per month would equal \$200.

In all options, the Mayor would still receive an additional \$50 per month for performance of additional duties.

I would like to place these options for consideration of the Finance Committee on Monday, November 25, 2019 and if a recommendation is made by the Committee to then to take to City Council for approval that same evening.

Please contact me if you have any questions or should you want me to consider additional options.

Thank you.

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2019-XX**

**AN ORDINANCE APPROVING AN AMENDMENT TO  
THE CITY OF WHARTON, TEXAS, BUDGET FOR  
THE 2019-2020 FISCAL YEAR.**

**WHEREAS,** The City Council of the City of Wharton, Texas finds and determines it necessary to revise the 2019-2020 budget to better reflect actual revenues and expenditures in operations and activities during the fiscal year; and,

**WHEREAS,** The City Council finds and determines that these adjustments to the budget are for municipal purposes.

**NOW, THEREFORE BE IT ORDAINED** by the City Council of the City of Wharton, Texas that the 2019-2020 Budget be amended as per Attachment "A;" and is adopted by the following favorable majority of votes of the members of the City Council of the City of Wharton, Texas in a duly assembled city council meeting by the following majority:

- |                              |       |                              |       |
|------------------------------|-------|------------------------------|-------|
| Clifford Jackson             | Voted | Steven Schneider             | Voted |
| Councilmember District No. 1 |       | Councilmember District No. 2 |       |
| Terry Freese                 | Voted | Donald Mueller               | Voted |
| Councilmember District No. 3 |       | Councilmember District No.4  |       |
| Russell Machann              | Voted | Alice Heard- Roberts         | Voted |
| Councilmember at Large No. 5 |       | Councilmember at Large No. 6 |       |
| Tim Barker                   | Voted |                              |       |
| Mayor                        |       |                              |       |

**Separability**

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

**Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, this 25th day of November 2019.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

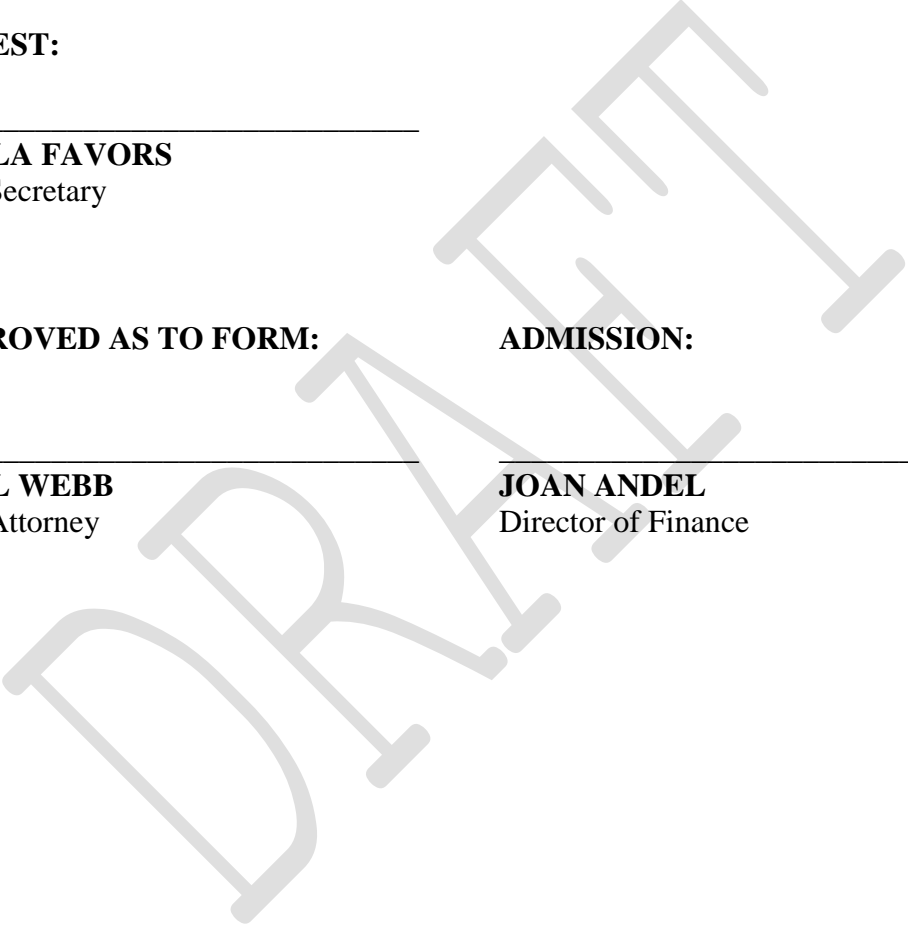
\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

**APPROVED AS TO FORM:**

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

**ADMISSION:**

\_\_\_\_\_  
**JOAN ANDEL**  
Director of Finance




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

## FINANCE COMMITTEE

Meeting Date:	11/25/2019	Agenda Item:	City of Wharton Annual Financial Report for Fiscal Year October 1, 2017 to September 30, 2018 by Harrison, Waldrop & Uherek, L.L.P.
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Mr. Steve Van Manen of Harrison, Waldrop & Uherek, LLP, the City Auditors, will present the City of Wharton Annual Financial Report for Fiscal Year October 1, 2017 to September 30, 2018.

The City Council Finance Committee will meet at 5:30 p.m. on Monday, November 25, 2019 to review the report with Mr. Van Manen and formulate a recommendation of the financial report.

City Manager: Andres Garza, Jr.	Date: Thursday, November 21, 2019
Approval: 	
Mayor: Tim Barker	


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

## FINANCE COMMITTEE

Meeting Date:	11/25/2019	Agenda Item:	Resolution: A resolution of the Wharton City Council adopting the City of Wharton Investment Policy after the Annual Review of City of Wharton Investment Policy and setting an effective date.
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The City of Wharton Investment Policy must be reviewed and adopted annually.

Attached is a memo from Finance Director Joan Andel of the current policy and the draft resolution.

City Manager: Andres Garza, Jr.	Date: Thursday, November 21, 2019
Approval: 	
Mayor: Tim Barker	



# City of Wharton

120 E. Caney Street ° Wharton, TX  
77488

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

## MEMORANDUM

To: Mr. Andres Garza, Jr.  
City Manager

From: Joan Andel

Date: November 20, 2019

Re: Investment Policy

I have submitted the current City of Wharton's Investment Policy to Mr. James Gilley, Financial Advisor at U.S. Capital Advisors for his review and at this time no changes are needed to the Policy.

I would like to have the City of Wharton Investment Policy on the agenda for the Finance Committee on Monday, November 25, 2019 for approval and if approved submit to the City Council for final approval and implementation.

Should you have any further questions, please contact me.

Thank you.

**EXHIBIT A**

**CITY OF WHARTON  
INVESTMENT POLICY**

**INTRODUCTION**

The purpose of this document is to set forth-specific investment policy and strategy guidelines for the City of Wharton in order to achieve the goals of safety, liquidity, yield, and public trust for all investment activity. The City Council of the City of Wharton shall review and adopt, by resolution, its investment strategies and policy not less than annually. The resolution shall include a record of changes made to either the investment policy or strategy. This policy serves to satisfy the statutory requirement (specifically the Public Funds Investment Act, Article 342a-2 V.T.C.S. (the "Act) to define, adopt and review a formal investment strategy and policy.

**INVESTMENT STRATEGY**

The City of Wharton maintains portfolios, which utilize three specific investment strategy considerations, designed to address the unique characteristics of the fund groups represented in the portfolios:

- A. Investment strategies for operating funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. The secondary objective is to create a portfolio structure, which will experience minimal volatility during economic cycles. This may be accomplished by purchasing high quality, short- to medium-term securities and maintaining balances in investment pools.
- B. Investment strategies for debt service funds and debt service reserve funds shall have as the primary objective the assurance of investment liquidity adequate to cover the debt service obligation on the required payment date. Securities purchased shall not have a stated final maturity date, which exceeds the debt service payment date.
- C. Investment strategies for special projects or special purpose fund portfolios will have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. These portfolios should include at least 10% in highly liquid securities to allow for flexibility and unanticipated project outlays. The stated final maturity dates of securities held should not exceed the estimated project completion date.

## INVESTMENT POLICY

### I. SCOPE

This investment policy applies to all financial assets of the City of Wharton. These funds are accounted for in the City's Comprehensive Annual Financial Report (CAFR) and include:

- General Fund
- Special Revenue Funds
- Debt Service Funds
- Capital Projects Funds
- Proprietary Funds
- All Other Funds

### II. OBJECTIVES

The City of Wharton shall manage and invest its cash with four objectives, listed in order of priority: Safety, Liquidity, Yield, and Public Trust. The safety of the principal invested always remains the primary objective. All investments shall be designed and managed in a manner responsive to the public trust and consistent with State and Local law.

The City shall maintain a comprehensive cash management program, which includes collection of account receivable, vendor payment in accordance with invoice terms, and prudent investment of available cash. Cash management is defined as the process of managing monies in order to insure maximum cash availability and maximum yield on short-term investment of pooled idle cash.

#### Safety

The primary objective of the City's investment activity is the preservation of capital in the overall portfolio. Each investment transaction shall be conducted in a manner to avoid capital losses, whether they be from securities defaults or erosion of market value.

#### Liquidity

The City's investment portfolio shall be structured such that the City is able to meet all obligations in a timely manner. This shall be achieved by matching investment maturities with forecasted cash flow requirements and by investing in securities with active secondary markets.

#### Yield

The City's cash management portfolio shall be designed with the objective of regularly exceeding the average rate of return on U.S. Treasury Bills at a maturity level comparable to the City's weighted average maturity in days. The investment program shall seek to augment returns above this threshold consistent with risk limitations identified herein and prudent investment policies. The cash management portfolio yield objective shall in no way limit the investment at rates below



the portfolio-yield objective, consistent with prudent investment practices.

Public Trust

All participants in the City's investment process shall seek to act responsibly as custodians of the public trust. Investment officials shall avoid any transaction, which might impair public confidence in the City's ability to govern effectively.

**III. RESPONSIBILITY AND CONTROL**

Investment Committee

An Investment Committee, consisting of the Director of Finance, the City Manager and the Finance and Budget Committee shall meet at least annually to determine operational strategies and to monitor results. The Investment Committee shall include in its deliberation such topics as: performance reports, economic outlook, portfolio diversification, maturity structure, potential risk to the City's funds, authorized brokers and dealers, and the target rate of return on the investment portfolio.

Delegation of Authority and Training

Authority to manage the City's investment program is derived from a resolution of the City Council. The Director of Finance is designated as investment officer of the City and is responsible for investment decisions and activities. The Director of Finance shall establish written procedures for the operation of the investment program, consistent with this investment policy. The investment officer shall attend at least one training session relating to the officer's responsibility under the Act within 12 months after assuming duties. Training must be obtained not less than once every two years and receive 10 hours of training. Such training from an independent source shall be approved or endorsed by either the Government Finance Officers Association of Texas, the Government Treasurers Organization of Texas, the Texas Municipal League, or the North Central Texas Council of Governments, University of North Texas Center for Public Management.

Internal Controls

The Director of Finance is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, the Director of Finance shall establish a process for annual independent review by an external auditor to assure compliance with policies and procedures. The results of this review shall be reported to the City Council. The internal controls shall address the following points:

- A. Control of collusion.

- B. Separation of transaction authority from accounting and record keeping.
- C. Custodial safekeeping.
- D. Avoidance of physical delivery securities.
- E. Clear delegation of authority to subordinate staff members.
- F. Written confirmation for telephone (voice) transactions for investments and wire transfers.
- G. Development of a wire transfer agreement with the depository bank or third party custodian.

### Prudence

The standard of prudence to be applied by the investment officer shall be the "prudent investor" rule, which states: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- A. The investment of all funds, or funds under the City's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment.
- B. Whether the investment decision was consistent with the written investment policy of the City.

The investment officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported immediately and that appropriate action is taken to control adverse developments.

### Ethics and Conflicts of Interest

City staff involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair the ability to make impartial investment decisions. City staff shall disclose to the City Manager any material financial interests in financial institutions that conduct business with the City and they shall further disclose positions that could be related to the performance of the City's portfolio. City staff shall subordinate their personal financial transactions to those of the City, particularly with regard to timing of purchases and sales.

An investment officer of the City who has a personal business relationship with an organization seeking to sell an investment to the City shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity.

### **IV. REPORTING**

### Quarterly Reporting

The Director of Finance shall submit a signed quarterly investment report. The report shall summarize investment strategies employed in the most recent quarter, and describe the portfolio in terms of investment securities, maturities, and shall explain the total investment return for the quarter.

### Annual Report

Within 60 days of the end of the fiscal year, the Director of Finance shall present an annual report on the investment program and investment activity. This report may be presented as a component of the fourth quarter report to the City Manager and City Council.

### Methods

The quarterly investment report shall include a succinct management summary that provides a clear picture of the status of the current investment portfolio and transactions made over the last quarter. This management summary will be prepared in a manner, which will allow the City to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report will be prepared in compliance with generally accepted accounting principles. The report will be provided to the City Manager and City Council. The report will include the following:

- A. A listing of individual securities held at the end of the reporting period. This list will include the name of the fund or pooled group fund for which each individual investment was acquired.
- B. Unrealized gains or losses resulting from appreciation or depreciation by listing the beginning and ending book and market value of securities for the period. Market values shall be obtained from financial institutions or portfolio reporting services independent from the broker/dealer from which the security was purchased.
- C. Additions and changes to the market value during the period.
- D. Fully accrued interest for the reporting period.
- E. Average weighted yield to maturity of portfolio on entity investments as compared to applicable benchmarks.
- F. Listing of investments by maturity date.
- G. The percentage of the total portfolio which each type of investment represents.
- H. Statement of compliance of the City's investment portfolio with State Law and the

investment strategy and policy approved by the City Council.

**V. INVESTMENT PORTFOLIO**

Investments

Assets of the City of Wharton may be invested in the following instruments; provided, however, that at no time shall assets of the City be invested in any instrument or security not authorized for investment under the Act, as the Act may from time to time be amended. The City is not required to liquidate investments that were authorized investments at the time of purchase.

Authorized

- A. Obligations of the United States of America, its agencies and instrumentalities, which have a liquid market with a readily determinable market value.
- B. Direct obligations of the State of Texas and agencies thereof.
- C. Other obligations, the principal of and interest on which are unconditionally guaranteed by the State of Texas or United States of America.
- D. Obligations of the States, agencies thereof, Counties, Cities, and other political subdivisions of any state having an underlying rating of not less than "A" or its equivalent. However, if the obligations are insured by municipal bonds insurance having a rating of "double-A" equivalent or higher, then the underlying rating of the obligations shall be not less than the lowest investment grade rating.
- E. Certificates of Deposit of state and national banks domiciled in Texas, a savings bank domiciled in Texas, or a state or federal credit union domiciled in Texas, which is:
  - 1. Guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;
  - 2. Secured by obligations described in A through D above, which are intended to include all direct agency or instrumentality issued mortgage backed securities rated AAA by a nationally recognized rating agency, or by Article 2529b-1, V.T.C.S., and that have a market value of not less than the principal amount of the certificates.
- F. Fully collateralized direct repurchase agreements with a defined termination date secured by obligations of the United States or its agencies and instrumentalities pledged with a third party, selected by the Director of Finance, other than an agency for the pledgor. Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a bank domiciled in Texas. A Master Repurchase Agreement must be signed by the bank/dealer prior to investment in a

repurchase agreement.

- G. Joint pools of political subdivisions in the State of Texas, which invest in instruments and follow practices allowed by current law. A pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.
- H. No-load money market mutual funds who are rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service, registered with the SEC, provide a prospectus, have a dollar-weighted average stated maturity of 90 days or less and includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share. The City shall invest in the aggregate no more than 80 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service in no-load money market mutual funds.

Not Authorized

The City's authorized investments options are more restrictive than those allowed by State law. State law specifically prohibits investment in the following investment securities.

- A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
- B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.

Holding Period

The City of Wharton intends to match the holding periods of investment funds with liquidity needs of the City. In no case will the average maturity of investments of the City's operating funds exceed one year. The maximum final stated maturity of any investment shall not exceed five years.

Investments in all funds shall be managed in such a way that the market price losses resulting from interest rate volatility would be minimized by coupon income and current income received from the volume of the portfolio during a twelve-month period.

Risk and Diversification

The City of Wharton recognizes that investment risks can result from issuer defaults, market price changes or various technical complications leading to temporary illiquidity. Risk is controlled through portfolio diversification, which shall be achieved by the following general guidelines:

- A. Risk of issuer default is controlled by limiting investments to those instruments allowed by the Act, which are described herein.
- B. Risk of market price changes shall be controlled by avoiding over-concentration of assets in a specific maturity sector, limitation of average maturity of operating funds investments to one year, and avoidance of over-concentration of assets in specific instruments other than U.S. Treasury Securities and Insured or Collateralized Certificates of Deposits.
- C. Risk of illiquidity due to technical complications shall be controlled by the selection of securities dealers as described herein.

## **VI. SELECTION OF BANKS AND DEALERS**

### Depository

A Depository shall be selected through the City's banking service procurement process, which shall include a formal request for proposal (RFP). In selecting a depository, the credit worthiness of institutions shall be considered, and the Director of Finance shall conduct a comprehensive review of prospective depositories credit characteristics and financial history. The term for depository contracts may be no longer than five years.

### Certificates of Deposit

Banks seeking to establish eligibility for the City's competitive certificate of deposit purchase program shall submit for review annual financial statements, evidence of federal insurance and other information as required by the Director of Finance.

### Securities Dealers

For brokers and dealers of government securities, the City shall select only those dealers that are adequately financed to conduct public business. Investment officials shall not knowingly conduct business with any firm with whom public entities have sustained losses on investments. All Securities dealers shall provide the City with references from public entities, which they are currently serving. The Investment Committee shall adopt and annually review a list of qualified brokers authorized to engage in investment transactions with the entity.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the following as appropriate:

- audited financial statements
- proof of Financial Industry Regulatory Authority (FINRA) certification
- proof of state registration

- completed broker/dealer questionnaire
- certification of having read the City's investment policy signed by a qualified representative of the organization
- acknowledgment that the organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between the City and the organization

**Qualified representative** means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

- A. For a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the FINRA;
- B. For a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution; or
- C. For an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the certification on behalf of the investment pool.

### Investment Pools

A thorough investigation of the pool is required prior to investing, and on a continual basis. All investment pools must supply the following information in order to be eligible to receive funds.

- the types of investments in which money is allowed to be invested.
- the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool.
- the maximum stated maturity date of any investment security within the portfolio.
- the objectives of the pool.
- the size of the pool.
- the names of the members of the advisory board of the pool and the dates their terms expire.
- the custodian bank that will safekeep the pool's assets.
- whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation.
- whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment.
- the name and address of the independent auditor of the pool.
- the requirements to be satisfied for an entity to deposit funds in and withdraw funds

- from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool.
- the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.
  - a description of interest calculations and how interest is distributed, and how gains and losses are treated.

An annual review of the financial condition and registration of qualified bidders will be conducted by the Director of Finance.

## **VII. SAFEKEEPING AND CUSTODY**

### Insurance or Collateral

All deposits of City funds shall be secured by pledged collateral. When a pledge of collateral is necessary it must meet the following FIRREA requirements: (1) the collateral pledge agreement must be in writing, (2) the collateral pledge agreement must be approved by the depository's board of directors or loan committee, (3) the depository's approval of the collateral pledge agreement must be reflected in the minutes of the meeting of the depository's board or loan committee approving same, and (4) the collateral pledge agreement must be kept in the official records of the depository. The depository must provide the Investment Officer with written proof of the depository's approval of the pledge agreement as required herein in the form of a signed or certified copy of the minutes of the meeting of the depository's board or loan committee reflecting the approval.

In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest on the deposits or investments less an amount insured by the FDIC or FSLIC. Evidence of the pledged collateral shall be maintained by the Director of Finance or a third party financial institution. Repurchase agreements shall be documented by a specific agreement noting the collateral pledge in each agreement. Collateral shall be reviewed weekly to assure that the market value of the pledged securities is adequate.

### Safekeeping Agreement

Collateral pledged to secure deposits of the City shall be held by a safekeeping institution in accordance with a safekeeping agreement which clearly defines the procedural steps for gaining access to the collateral should the City of Wharton determine that the City's funds are in jeopardy. The safekeeping institution, or Trustee, shall be the Federal Reserve Bank or an institution not affiliated with the firm pledging the collateral. The safekeeping agreement shall include the signatures of authorized representatives of the City of Wharton, the firm pledging the collateral, and the Trustee.

### Collateral Defined



The City of Wharton shall accept only the following securities as collateral:

All investments authorized in A-E of Section V of this investment policy.

Subject to Audit

All collateral shall be subject to inspection and audit by the Director of Finance or the City's independent auditors.

Delivery vs. Payment

Treasury Bills, Notes, Bonds, Repurchase Agreements and Government Agencies' securities shall be purchased using the delivery vs. payment method. That is, funds shall not be wired or paid until verification has been made that the correct security was received by the Trustee. The security shall be held in the name of the City or held on behalf of the City. The Trustee's records shall assure the notation of the City's ownership of or explicit claim on the securities. The original copy of all safekeeping receipts shall be delivered to the City.

**VIII. INVESTMENT POLICY ADOPTION**

The City of Wharton investment policy shall be adopted by resolution of the City Council. The policy shall be reviewed for effectiveness on an annual basis by the Investment Committee and any modifications will be recommended for approval to the City Council. The City Council shall review these investment policies and strategies not less than annually and approval must be reflected in the minutes of the meeting.

**GLOSSARY of COMMON TREASURY TERMINOLOGY**

**Agencies:** Federal agency securities.

**Asked:** The price at which securities are offered.

**Bid:** The price offered for securities.

**Broker:** A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides; he does not position. In the money market, brokers are active in markets in which banks buy and sell money and in inter-dealer markets.

**Certificate of Deposit (CD):** A time deposit with a specific maturity evidenced by a certificate. Large-denomination CD's are typically negotiable.

**Collateral:** Securities, evidence of deposit or other property, which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**Comprehensive Annual Financial Report (CAFR):** The official annual report for the City of Wharton. It includes six combined statements and basic financial statements for each individual fund and account group prepared in conformity with GAAP. It also includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provisions, extensive introductory material, and a detailed Statistical Section.

**Coupon:** (a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a payment date.

**Dealer:** A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

**Debenture:** A bond secured only by the general credit of the issuer.

**Delivery versus Payment:** There are two methods of delivery of securities: delivery versus payment and delivery versus receipt (also called free). Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

**Discount:** The difference between the cost price of a security and its value at maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**Discount Securities:** Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U.S. Treasury bills.

**Diversification:** Dividing investment funds among a variety of securities offering independent returns.

**Federal Credit Agencies:** Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

**Federal Deposit Insurance Corporation (FDIC):** A federal agency that insures bank deposits, currently up to \$250,000 per deposit.

**Federal Funds Rate:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**Federal Home Loan Banks (FHLB):** The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-avis member commercial banks.

**Federal National Mortgage Association (FNMA):** FNMA, like GNMA, was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development, HUD. It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**Federal Open Market Committee (FOMC):** Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**Federal Reserve System:** The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

**Government National Mortgage Association (GNMA or Ginnie Mae):** Securities guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by FHA, VA or FHM mortgages. The term pass-throughs is often used to describe Ginnie Maes.

**Liquidity:** A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

**Local Government Investment Pool (LGIP):** The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**Market Value:** The price at which a security is trading and could presumably be purchased or sold.

**Master Repurchase Agreement:** To protect investors, many public investors will request that repurchase agreements be preceded by a master repurchase agreement between the investor and the financial institution or dealer. The master agreement should define the nature of the transaction, identify the relationship between the parties, establish normal practices regarding ownership and custody of the collateral securities during the term of the investment, provide remedies in the case of default by either party and clarify issues of ownership. The master repurchase agreement protects the investor by eliminating the uncertainty of ownership and hence, allowing investors to liquidate collateral if a bank or dealer defaults during the term of the agreement.

**Maturity:** The date upon which the principal or stated value of an investment becomes due and payable.

**Money Market:** The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

**Open Market Operations:** Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy.

Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**Portfolio:** Collection of securities held by an investor.

**Primary Dealer:** A group of government securities dealers that submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC) registered securities broker-dealers, banks and a few unregulated firms.

**Prudent Person Rule:** An investment standard. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

**Qualified Public Depositories:** A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

**Rate of Return:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

**Repurchase Agreement (RP or REPO):** A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, that is, increasing bank reserves.

**Safekeeping:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

**SEC Rule 15C3-1:** See uniform net capital rule.

**Secondary Market:** A market made for the purchase and sale of outstanding issues following the initial distribution.

**Securities & Exchange Commission:** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**Treasury Bills:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months or one year.

**Treasury Bond:** Long-term U.S. Treasury securities having initial maturities of more than ten years.

**Treasury Notes:** Intermediate term coupon bearing U.S. Treasury securities having initial maturities from one to ten years.

**Yield:** The rate of annual income return on an investment, expressed as a percentage. (a) Income Yield is obtained by dividing the current dollar income by the current market price of the security. (b) Net Yield or Yield to Maturity is the current income yield minus any premium above par.

**Uniform Net Capital Rule:** Securities and Exchange Commission requirement that member firms as well as nonmember broker dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one-reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

### **Broker / Dealer List**

The following is a list of qualified brokers authorized to engage in investment transactions with the City of Wharton:

Mr. Wink Harvey  
Deutsche Bank  
700 Louisiana St.  
Suite 1500  
Houston, Texas 77002  
832-239-3340

Ms. Polly Moore  
Morgan Keegan & Co.  
2801 Via Furtuna  
Suite 650  
Austin, Texas 78746  
512-306-2514

Mr. Steve Zanone  
FTN Financial Capital Markets  
7500 College Blvd.  
Suite 1170 Lighton Tower  
Overland Park, KS 66210  
913-339-5400

Zach Brewer  
FTN Financial  
920 Memorial City Way  
Houston, TX 77024  
713-435-4361

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

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

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

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

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

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

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

Section I. The City of Wharton has complied with the requirements of the Public Funds Investment Act and the Investment Policy attached hereto as "Exhibit A" is hereby adopted as the Investment Policy of the City of Wharton effective November 25, 2019.

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

**Passed, Approved, and Adopted** this 25<sup>th</sup> day of November 2019.

**CITY OF WHARTON, TEXAS**

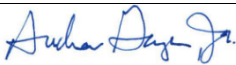
**By:** \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

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

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

## FINANCE COMMITTEE

Meeting Date:	11/25/2019	Agenda Item:	Resolution: A resolution of the Wharton City Council extending the Customer-Developer Sewer Service Agreement with Eric Muegge and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement and setting an effective date.
<p>Attached you will find the request from Mr. Eric Muegge for an eighteen month extension on the Customer Developer Sewer Service Agreement with the City of Wharton that was entered into in February 22, 2016. The agreement was for three years that began on May 3, 2016 after the substantial completion of the improvements by the City of Wharton. Mr. Muegge has advised that all seven parcels have been purchased for construction and one home has begun construction. The reimbursement under the agreement is 1/7 of the \$13,000.00 worth of improvements for each Certificate of Occupancy issued. Mr. Muegge has also expressed that construction on the parcels was delayed due to Hurricane Harvey in 2019.</p> <p>Attached is a copy of the signed agreement.</p> <p>Mr. Muegge will be present to answer any questions.</p>			
City Manager: Andres Garza, Jr.		Date: Thursday, November 21, 2019	
Approval: 			
Mayor: Tim Barker			



November 12, 2019

Mr. Andres Garza  
City of Wharton  
120 East Caney Street  
Wharton, Texas 77488

Dear Andres:

In 2016, the Muegge Family Testamentary Trust ("*Trust*") entered into an agreement with the City of Wharton ("*City*") in which, the City would provide sewer and water to Parr Addition at a cost of \$13,000. The agreement provided for reimbursement to be made to the Trust as construction was completed and a certificate of occupancy prior to February of 2019.

Unfortunately, our hopes for construction were hampered by Hurricane Harvey and Wharton's recovery since then. In the meantime, the agreement has obviously lapsed.

We have recently sold all of the lots to prospective builders who have plans to build spec homes in the \$160,000 +/- range. I have told them I would petition the city to extend the reimbursement offer. I respectfully request an 18-month extension of our prior agreement for your consideration.

Thank you for your consideration.

Sincerely,



Betty Parr Muegge, Co-Trustee  
Muegge Family Testamentary Trust



# City of Wharton

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

## MEMORANDUM

**DATE:** November 19, 2019

**FROM:** Gwyneth Teves, Community Development Director

**TO:** Mr. Andres Garza, Jr., City Manager

---

The City of Wharton has received a request from Mr. Eric Muegge, on behalf of the Muegge Family Testamentary Trust requesting an 18-month extension on the Customer Developer Sewer Service Agreement entered into with the City of Wharton in February of 2016.

The City of Wharton entered into the agreement with Mr. Muegge on February 22, 2016 and the agreement began the 3-year timeframe on May 3, 2016 after the substantial completion of the improvements by the City of Wharton. Mr. Muegge is requesting an 18-month extension on the agreement.

Mr. Muegge has advised all of the 7 parcels have been purchased for construction and 1 home has begun construction. The reimbursement under the agreement is 1/7<sup>th</sup> of the \$13,000 worth of improvement for each Certificate of Occupancy issued. Mr. Muegge has expressed that construction on the parcels was delayed due to the flooding that occurred in 2017 during Hurricane Harvey.

It is my recommendation that the City Council Finance Committee and City Council consider approving a one-time extension of 18-months effective on the expiration of the original agreement date of May 3, 2016. This would make the new expiration date of the agreement November 3, 2020.

The request from Mr. Muegge and the original agreement are attached.

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

**CUSTOMER-DEVELOPER  
SEWER SERVICE AGREEMENT**

**THE STATE OF TEXAS           §  
COUNTY OF WHARTON       §**

**KNOW ALL MEN BY THESE PRESENTS:**

**THIS AGREEMENT** between the City of Wharton, a Municipal Corporation, acting by and through its Mayor, situated in Wharton County, Texas, (hereinafter referred to as "City", "Party"), and Eric Muegge (hereinafter referred to as "Customer-Developer", "Party"), as follows:

**WITNESSETH:**

1. Customer – Developer desires to have the City extend a six (6) inch public sewer main line, known as the "Parr Addition Sewer Line Project," to an existing location at Parr Addition Lots 1-7, Wharton, Texas. The improvements Customer-Developer desires to have constructed to the location are shown in the Project site plan attached hereto as Exhibit "A" and is as follows: A six (6) inch sewer main extension to the property with sewer tap to each lot to the property line in accordance with the City of Wharton specifications. Customer-Developer hereby agrees that it will bear the entire cost of the installation, including all actual engineering costs, including construction materials, labor and equipment fund ("Project Cost") associated with the aforementioned Improvements. The payment to the City shall be in accordance with the attached Exhibit "B" and shall be as follows: Customer-Developer will initially pay \$13,000.00 upon execution of this Agreement, which represents the City's project construction costs for the sewer main project. The City will conduct the construction of these facilities.
2. Construction of the Facilities. The City shall obtain all required permits, if any, and shall thereafter cause commence and thereafter diligently prosecute the completion of the Project in accordance with the construction plans, so that the Project is fully completed and operational by May 3, 2016.
3. For a period of three (3) years from the date of the substantial completion of this 6-inch sewer main, the City of Wharton will reimburse customer-developer for each

house built on each lot and a certificate of occupancy that has been issued by the City's Code Enforcement Department an amount equal to 1/7 of \$13,000.00.

### **STANDARD PROVISIONS**

4. **Remedies.** The remedies available to the City and the Customer-Developer under this Agreement, and the laws of Texas, are cumulative in nature. The exercise of any one right or remedy shall be without prejudice to the enforcement of any other right or remedy allowed at law or in equity. Any material misrepresentation or failure by either Party to fully disclose all relevant facts regarding the Project or connection and service requirements to the Property shall be a breach of this Agreement.

5. **Third Party Rights.** No person or entity who or which is not a party to this Agreement shall not have any right of action under this Agreement, nor shall any such person or entity other than the City (including without limitation a trustee in bankruptcy) have any interest.

6. **No Waiver.** No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time by either Party to enforce this Agreement or covenant by the Party, its successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

7. **Attorney's Fees.** Should either Party be required to resort to litigation to enforce or interpret the terms of this Agreement, the prevailing Party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other Party. If the court awards relief to both Parties, each will bear its own costs in their entirety.

8. **Assignability.** The benefits and burdens of this Agreement are corporate obligations of the Customer-Developer and also are binding on its heirs, successors, and assigns. The Customer-Developer's obligations under this Agreement may not be assigned without the express written approval of the City. The City's written approval may not be withheld if the Customer-Developer's assignee explicitly assumes all obligations of the Customer-Developer under this Agreement. The City, in its sole discretion, may assign some or all of its rights under this Agreement, and any such assignment shall be effective upon notice to the Customer-Developer.

9. **Notice.** Any notice required or permitted by this Agreement is effective when personally delivered in writing, or three (3) business days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed to the Parties at their respective addresses set forth on the signature page of this Agreement.

9.1 The Parties may, from time to time, change their respective addresses to any other location in the United States for the purpose of notice under this Agreement. A Party's change of

address shall be effective when notice of the change is provided to the other Party in accordance with the provisions of this Paragraph.

10. Severability. If any part, term, or provision of this Agreement is held by the Texas courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the validity of any other part, term, or provision, and the rights of the Parties will be construed as if the part, term, or provision was never part of this Agreement.

11. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either Party to this Agreement, whether arising out of or relating to the Agreement, will be deemed to be proper only if such action is commenced in the Courts of Wharton County, Texas. The Customer-Developer expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal.

12. Captions Immaterial. The numbering, order, and captions or headings of the paragraphs of this Agreement are for convenience only and shall not be considered in construing the intent of this Agreement.

13. Entire Agreement. This Agreement contains the entire agreement between the Parties and correctly sets forth the rights, duties, and obligations of each to the other as of the Effective Date. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent written modification executed by both Parties.

14. Authorization to Complete Agreement Blanks. By signing and delivering this Agreement to the appropriate official of the City, the Customer-Developer authorizes completion of this Agreement by the City accurately filling in the Effective Date below and providing a conformed copy to the Customer-Developer.

15. Binding Agreement. The execution and delivery of this Agreement and the performance of the transactions contemplated thereby, have been duly authorized by all necessary private corporate, municipal corporate, and governmental actions of the appropriate Party. This Agreement has been duly executed and delivered by each Party, and constitutes a legal, valid, and binding obligation of each Party enforceable in accordance with the terms as of the Effective Date.

16. Governing Law. This Agreement is governed by the laws of the State of Texas.

17. Survival. Any and all representations, conditions and warranties made by either Party under this Agreement are **OF THE ESSENCE** of this Agreement and shall survive the execution, delivery and termination of it; and the construction by City's independent contractor and final acceptance of the Project Improvement(s) by the City; and all statements contained in any document required by the City from Customer-Developer, whether delivered at the time of the Agreement execution, or at a later date, shall constitute representations and warranties hereunder.

18. Force Majeure. In the event that either Party shall be prevented from completing performance of its Project Contract obligations under this Agreement by an act of God or other occurrence whatsoever, which is beyond the reasonable control of either Party, then assuming that the adversely affected Party has made reasonable efforts to remove or mitigate the force majeure, that Party shall be excused from any further performance of its obligation and undertakings.

19. Warranty. The City warrants that the Project Improvements constructed by the City will be free from defects except the City does not warrant the Project Improvements for defects caused by events outside the control of the City. After the construction the City will assume all traditional operation and maintenance responsibilities associated with owning a component of a Texas municipal sewer system.

**20. INDEMNIFICATION. THE DEVELOPER HEREBY EXPRESSLY AGREES TO INDEMNIFY AND HOLD THE CITY AND ITS OFFICERS, EMPLOYEES, AND AGENTS HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, COSTS, AND LIABILITY OF EVERY KIND AND NATURE, INCLUDING REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS AGAINST CITY, ARISING FROM: (A) ANY DEVELOPER DEFAULT UNDER OR IN VIOLATION OF ANY FEDERAL, STATE, OR LOCAL STATUTE, REGULATION, ORDER; OR (B) ANY BREACH ON THE PART OF DEVELOPER OF ANY PROVISION IN THIS AGREEMENT; OR (C) FROM ANY NEGLIGENT ACT OR OMISSION OF DEVELOPER OR DEVELOPER'S AGENTS, CONTRACTORS, EMPLOYEES, TENANTS, OR LICENSEES RELATED TO THE CITY'S CONSTRUCTION OF THE PROJECT WATER MAIN IMPROVEMENTS. THE DEVELOPER IS NOT A PARTNER, EMPLOYEE OR AGENT OF THE CITY. THE DEVELOPER AGREES TO INDEMNIFY AND HOLD THE CITY AND ITS OFFICERS, EMPLOYEES, AND AGENTS HARMLESS FROM ANY CLAIMS, DEMANDS, COSTS, OR LIABILITIES ARISING FROM ANY ACT OR NEGLIGENCE OF THE DEVELOPER, ITS AGENTS, CONTRACTORS, EMPLOYEES, TENANTS, OR LICENSEES, WHETHER OR NOT THAT ACT OR NEGLIGENCE IS THE SOLE OR CONCURRING CAUSE OF THE ALLEGED INJURY OR DAMAGE.**

21. Transfer of Ownership and Assumption of Service Maintenance. The City will accept for permanent ownership, public maintenance and operations of the sewer line.

The Effective Date of this Agreement is the date on which the City executes this Agreement.

EXECUTED in duplicate originals as of the 22<sup>nd</sup> day of February 2016.

CITY OF WHARTON

CUSTOMER-DEVELOPER

By: [Signature]  
DOMINGO MONTALVO, JR., Mayor

By: [Signature]  
ERIC MUEGGE, Customer  
Developer

ATTEST:  
By: [Signature]  
PAULA FAVORS, City Secretary

ATTEST:  
By: [Signature]

Acknowledgments

STATE OF Texas §  
COUNTY OF Wharton §



THIS INSTRUMENT was acknowledged before me on March 2, 2016,  
by Eric Muegge, Eric Muegge.

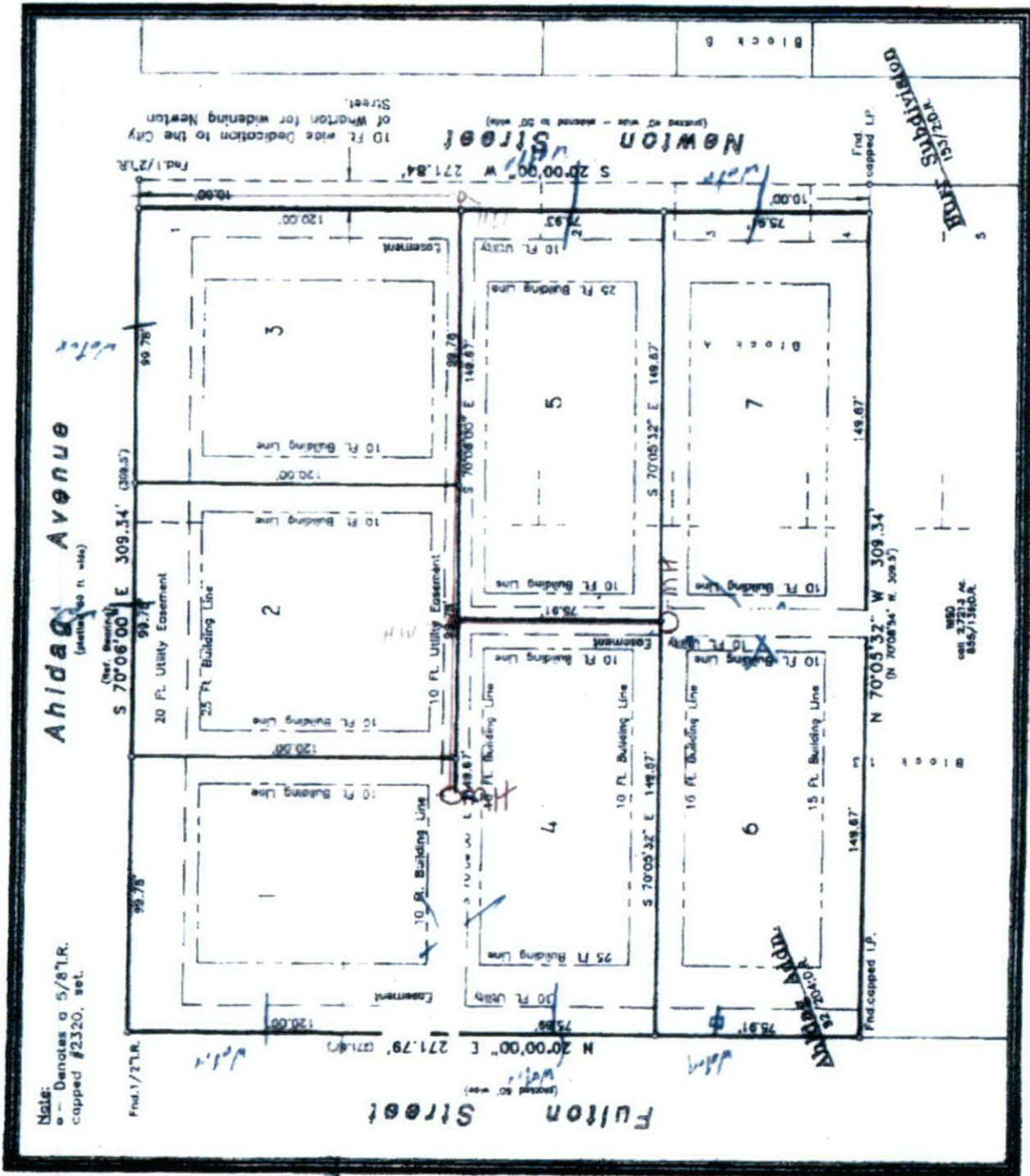
[Signature]  
Notary Public, State of Texas

STATE OF TEXAS §  
COUNTY OF WHARTON §



THIS INSTRUMENT was acknowledged before me on February 22, 2016,  
by Domingo Montalvo, Jr., Mayor of the City of Wharton, Texas.

[Signature]  
Notary Public, State of Texas







Wharton City  
120 E. Caney Street  
Wharton, Texas 77488  
Office 979-532-2491  
Fax 979-531-1744

January 19, 2016

Wharton, TX 77488

Re: Sewer Extension at Parr Addition (Site Improvements)

The cost for the City to extend the sewer line to the two lots on the corner of Newton Street and Ahldag Avenue into the Parr Addition is as follows:

<u>Item #</u>	<u>Item Description</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Cost</u>
1.	6" PVC Pipe	200 ft.	\$25.00/ft.	\$5,000.00
2.	48" Manhole	2 each	\$4,000.00 each	\$8,000.00
			<b>Total Cost</b>	\$13,000.00

If you would like the City to extend these lines please submit to the City a formal letter requesting us to make the adjustments to the City lines. You (the owner/developer) will then need to enter into an agreement with the City to have the work completed.

If you have any questions regarding the above, please call me at 979-532-4811 Ext. 800.

Sincerely,

*Wade Wendt*  
Wade Wendt  
Public Works Director

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

**A RESOLUTION OF THE WHARTON CITY COUNCIL EXTENDING THE CUSTOMER-DEVELOPER SEWER SERVICE AGREEMENT WITH ERIC MUEGGE AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT AND SETTING AN EFFECTIVE DATE.**

**WHEREAS,** The Wharton City Council wishes to extend the Customer-Developer Sewer Service Agreement with Mr. Eric Muegge for \_\_\_\_\_ months; and,

**WHEREAS,** The Wharton City Council understands the need for housing in the City of Wharton; and,

**WHEREAS,** The City of Wharton and Mr. Eric Muegge wish to be bound by the conditions as set forth in the said agreement extension; and,

**WHEREAS,** The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the Sewer Service Agreement Extension with Mr. Eric Muegge.

**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 Customer-Developer Sewer Service Agreement Extension with Mr. Eric Muegge.

**Section II.** The City of Wharton and Mr. Eric Muegge are hereby bound by the conditions as set forth in said agreement.

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

**Passed, Approved, and Adopted** this 25th day of November 2019.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

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**PAULA FAVORS**  
City Secretary