



**CITY OF WHARTON
CITY COUNCIL REGULAR MEETING**

**Monday, March 13, 2023
7:00 PM**


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

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

Notice is hereby given that a City Council Regular Meeting will be held on Monday, March 13, 2023 at 7:00 PM at the Wharton City Hall, 120 East Caney Street, Wharton, Texas, at which time the following subjects will be discussed to-wit:

SEE ATTACHED AGENDA

Dated this 9th day of March 2023.


By: 
Tim Barker, Mayor

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council Regular Meeting is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin board, at City Hall of said City or Town in Wharton, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on March 9, 2023, 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. **BRILLE IS NOT AVAILABLE.**

Dated this 9th day of March 2023.

CITY OF WHARTON

By: 
Paula Favors
City Secretary



A G E N D A
CITY OF WHARTON
City Council Regular Meeting
Monday, March 13, 2023
City Hall - 7:00 PM

Call to Order –Opening Devotion –Pledge of Allegiance.

Roll Call and Excused Absences.

Public Comments.

Wharton Moment.

Review and Consider:

1. Reading of the minutes from the regular meetings held February 13, 2023, and February 27, 2023.
2. Request from Mr. Olan Bengé of 603 Salisbury Drive, Briargrove Section 1, Block 12C Pt., for a 12-foot variance from the required 25-foot front property line setback resulting in a 13-foot setback for the installation of a carport.
3. Wharton County Farmers Market:
 - A. Request from the Wharton County Farmers Market for the following:
 1. Use of Riverfront Park for the Wharton County Farmers Market for the Spring Market from April 8, 2023, through July 1, 2023, and Fall Market from September 30, 2023, through December 23, 2023.
 2. Allow glass containers.
 3. Waive all park fees.
 - B. Resolution: A resolution of the Wharton City Council approving a Memorandum of Understanding between the City of Wharton and the Wharton County Farmers Market regarding the use of Riverfront Park's Storage Space and authorizing the Mayor of the City of Wharton to execute all documents related to said Memorandum of Understanding.
4. Resolution: A resolution of the Wharton City Council approving a lease agreement between the City of Wharton and Hessed House of Wharton for use of the Dickson Rowan House located in Dinosaur Park, 421, 421A, 421B, 501 and 505 Colorado Street and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement.
5. Ordinance: An ordinance declaring the unopposed candidate for Councilmember District No. 3 and Councilmember At Large Place No. 5 as elected to office; providing that the general election held on May 6, 2023, for Councilmember District No. 3 and Councilmember At Large Place No. 5 shall be cancelled; providing that this ordinance shall

be cumulative of all ordinances; providing for severability; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith and providing an effective date.


Ordenanza: Una ordenanza declarando el candidato sin oposición para Concejal para el Distrito No. 3 y el Concejal de forma irrestricta para la Posición No. 5 según elegido a su puesto; disponiendo que se cancele la Elección General programada para el 6 de mayo 2023, para Concejal para el Distrito No. 3 y el Concejal de forma irrestricta para la Posición No. 5; disponiendo que esta ordenanza sea cumulativa para todas las ordenanzas; disponiendo la divisibilidad; revocando todas las ordenanzas o parte de ellas que sean inconsistentes o en conflicto con la presente y disponiendo una fecha vigente.

6. Resolution: A resolution of the Wharton City Council approving the termination of the current land lease agreement between the City of Wharton and Mr. Manuel Cabrera and Mr. Sergio Cabrera and authorizing the Mayor of the City of Wharton to execute all documents relating to said termination.
7. Appointments, Resignations and Vacancies to the City of Wharton Boards, Commissions and Committees:
 - A. Appointments.
 - B. Resignations.
 - C. Vacancies.
8. City Council Boards, Commissions and Committee Reports:
 - A. Parks and Recreation Committee meeting held February 27, 2023.
 - B. Finance Committee meeting held February 27, 2023.

Adjournment.

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

CITY COUNCIL COMMUNICATION

Meeting Date:	3/13/2023	Agenda Item:	Reading of the minutes from the regular meetings held February 13, 2023, and February 27, 2023.
<p>Attached you will find the draft minutes from the regular meetings held February 13, 2023, and February 27, 2023.</p>			
City Manager: Joseph R. Pace		Date: Thursday, March 9, 2023	
Approval: 			
Mayor: Tim Barker			

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL MEETING
FEBRUARY 13, 2023**

Mayor, Tim Barker, declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. at City Hall 120 E. Caney Street Wharton, TX. Councilmember, Russell Machann, led the opening devotion and Mayor, Tim Barker, led the pledge of allegiance.

Councilmember's present were: Mayor, Tim Barker, and Councilmembers, Terry Freese; Clifford Jackson; Russell Machann; Don Mueller; Larry Pittman and Steve Schneider.

Councilmember absent was: None.

Staff members present were: City Manager, Joseph R. Pace; City Attorney, Paul Webb; Finance Director, Joan Anandel; City Secretary, Paula Favors, TRMC, CPM, MMC; Assistant to the City Manager, Brandi Jimenez; Police Lieutenant, Lance Bothell; Finance Accountant, London Davis; Public Works Director, Anthony Arcidiacono; EMS Director, Christy Gonzales and Police Chief, Terry David Lynch.

Visitors present were: Burnell Neal; Don Hillis; Mike Moss; Raymond Harrison and Joe Southern with the Wharton Journal Spectator.

Roll Call and Excused Absences.

All Councilmembers were present.

Public Comments.

Mayor Tim Baker called for Public Comments.

Wharton Moment.

Mayor, Tim Barker, thanked the Mayor's Committee on People with Disabilities for their hard work on the Committee's Valentine's Dance. Mayor Barker said the event was a success and the Committee did a great job.

Review and Consider:

The first item on the agenda was to review and consider the reading of the minutes from the regular meetings held January 9, 2023, and January 23, 2023. City Secretary, Paula Favors, presented a copy of the draft minutes from the regular meetings held January 9, 2023, and January 23, 2023. After some discussion, Councilmember, Clifford Jackson, moved to approve of the minutes from the regular meetings held January 9, 2023, and January 23, 2023. Councilmember, Terry Freese, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider a request from Mr. Don M. Hillis of 1724 Oliver Street, Pecan Acres, Block 2, Lot 9 & 10 for a 5-foot variance from the required 25-foot front property line setback resulting in a 20-foot setback for the installation of a carport. Director of Planning & Development, Gwyn Teves, presented a copy of a request from Mr. Don M. Hillis of 1724 Oliver Street, Pecan Acres, Block 2, Lot 9 & 10 for a 5-foot variance from the required 25-foot front property line setback resulting in a 20-foot setback for the installation of a carport. Mrs. Teves stated the Planning Commission met on Monday, February 6, 2023, and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember, Russell Machann, moved to approve the request from Mr. Don M. Hillis of 1724 Oliver Street, Pecan Acres, Block 2, Lot 9 & 10 for a 5-foot variance from the required 25-foot front property line setback resulting in a 20-foot setback for the installation of a carport. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a request from Mr. Raymond Harrison on behalf of John A. Barclay of McElroy Ave., Ahldag, Block 38U, Barclay, Lot 1 & 2 for a variance from Wharton, Texas - Code of Ordinances APPENDIX A - SUBDIVISIONS Sec. 5. - General requirements and design standards – 5.02 Lots to replat 3 lots to dimensions of 44' x 115'. Director of Planning & Development, Gwyn Teves, presented a copy of the request from Mr. Raymond Harrison on behalf of John A. Barclay of McElroy Ave., Ahldag, Block 38U, Barclay, Lot 1 & 2 for a variance from Wharton, Texas - Code of Ordinances APPENDIX A - SUBDIVISIONS Sec. 5. - General requirements and design standards – 5.02 Lots to replat 3 lots to dimensions of 44' x 115'. Mrs. Teves stated the Planning Commission met on Monday, February 6, 2023, and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember, Larry Pittman, moved to approve the request from Mr. Raymond Harrison on behalf of John A. Barclay of McElroy Ave., Ahldag, Block 38U, Barclay, Lot 1 & 2 for a variance from Wharton, Texas - Code of Ordinances APPENDIX A - SUBDIVISIONS Sec. 5. - General requirements and design standards – 5.02 Lots to replat 3 lots to dimensions of 44' x 115'. Councilmember, Russell Machann, seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a request from Ms. Bonnie Johnson owner of 425 Croom Dr., Sycamore Grove Addition, Block ODD, Lot 2 & 3 to replat the property. Director of Planning & Development, Gwyn Teves, presented a copy of the request from Ms. Bonnie Johnson owner of 425 Croom Dr., Sycamore Grove Addition, Block ODD, Lot 2 & 3 to replat the property. Mrs. Teves stated the Planning Commission met on Monday, February 6, 2023, and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember, Clifford Jackson, moved to approve the request from Ms. Bonnie Johnson owner of 425 Croom Dr., Sycamore Grove Addition, Block ODD, Lot 2 & 3 to replat the property. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

The fifth item on the agenda was to review and consider a request from Mr. Burnell Neal, Property Owner of 1511 Columbine Street, to have water and sewer lines relocated. Mr. Burnell Neal, Property Owner of 1511 Columbine Street, requested to have water and sewer line relocated for no charge. Mr. Neal stated that he purchased a property that had previously been owned by one

owner that had several adjacent properties. He said that all of the properties were connected to one meter and he did not feel it was his responsibility to have to pay to have one installed on his property. After some discussion, no action was taken.

The sixth item on the agenda was to review and consider a Presentation of Sales Tax information. Finance Director, Joan Anandel, and Finance Accountant, London Davis, presented information on the City's sales tax. After some discussion, no action was taken.

The seventh item on the agenda was to review and consider the Wharton Police Department Annual Contact Report for 2022. Police Chief, Terry David Lynch, presented a copy of the memorandum dated January 30, 2023, to City Manager, Joseph R. Pace, regarding the City of Wharton 2022 Annual Contact Report (Racial Profiling Report) in accordance with Senate Bill 1074. Chief Lynch, presented the report to the City Council. After some discussion, Councilmember, Russell Machann, moved to approve the Wharton Police Department Annual Contact Report for 2022. Councilmember, Don Mueller, seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council approving a price increase to the Purchase Agreement with Houston Mac Haik Dodge Chrysler, Ltd., and authorizing the Mayor of the City of Wharton to execute all documents related to said increase. EMS Director, Christy Gonzales, stated that on December 13, 2021, the Wharton City Council approved the purchase of a remount and chassis from the Frazer Company, through their licensed franchise dealer, Mac Haik Dodge Chrysler Jeep, for the remount of Unit 1124. Mrs. Gonzales said the total amount of the original remount and chassis was \$157,474.00 but due to the shortage of Dodge RAM 3500 chassis', Mac Haik had a Dodge RAM 4500 chassis available for purchase for \$168,474.00 which was an increase of \$11,000.00. She said City Staff was requesting the City Council consider approving the increase of \$11,000.00 for the Dodge RAM 4500 chassis. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-10, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-10**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PRICE INCREASE TO THE PURCHASE AGREEMENT WITH MAC HAIK DODGE CHRYSLER, LTD., AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID INCREASE.

WHEREAS, On December 13, 2021, the Wharton City Council approved the purchase of a remount and chassis from the Frazer Company, through their licensed franchise dealer, Mac Haik Dodge Chrysler Ltd., for the remount of Unit 1124 in the amount of \$157,474.00; and,

WHEREAS, Due the shortage of Dodge RAM 3500 chassis', Mac Haik has a Dodge RAM 4500 chassis available for purchase for \$168,474.00, an increase of \$11,000.00; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute any and all documents related to said price increase to the Purchase Agreement with Mac Haik Dodge Chrysler, Ltd.

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

Section I. That the Wharton City Council hereby approves the price increase to the Purchase Agreement with Mac Haik Dodge Chrysler Ltd., for the purchase of a remount and Dodge RAM 4500 chassis in the amount of \$168,474.00 through the Houston-Galveston Area Council Cooperative Purchasing Program.

Section II. That the Mayor of the City of Wharton is hereby authorized to execute any and all documents related to said price increase to the Purchase Agreement.

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

PASSED, APPROVED, and ADOPTED this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The ninth item on the agenda was to review and consider the resolution of the Wharton City Council approving the EXHIBIT K Subdivision Participation and Release Forms for the Opioid Settlement and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. City Secretary, Paula Favors, stated the City of Wharton approved the Texas Term Sheet in October of 2021, joining in the distribution of the funds from opioid manufacturers. Mrs. Favors said the City of Wharton had been allocated \$33,204.14, and Endo/Par, became part of the legal claim in February 2022 and Walmart, Allergan and CVS were also becoming part of the distribution of funds. She said the only requirement to join in the funding distribution was for the City Council to approve the Mayor signing the EXHIBIT K Subdivision Participation and Release Forms. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-11, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-11**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE EXHIBIT K SUBDIVISION PARTICIPATION AND RELEASE FORMS FOR THE OPIOID SETTLEMENT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, The City of Wharton obtained information indicating that certain drug companies and their corporate affiliates, parents, subsidiaries, and such other defendants as may be added to the litigation (collectively, “Defendants”) have engaged in fraudulent and/or reckless marketing and/or distribution of opioids that have resulted in addictions and overdoses; and,

WHEREAS, These actions, conduct and misconduct have resulted in significant financial costs to the City; and,

WHEREAS, On May 13, 2020, the State of Texas, through the Office of the Attorney General, and a negotiation group for Texas political subdivisions entered into an Agreement entitled Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet and now an additional subdivision participation is available from Allergan, Walmart and Walgreens and Release Form is attached hereto as Exhibit “A” and Exhibit “B” and Exhibit “C”; and,

WHEREAS, Special Counsel and the State of Texas have recommended that the City of Wharton support the EXHIBIT K Subdivision Participation and Release Forms.

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

- Section I.** Support the adoption and approval of the EXHIBIT K Subdivision Participation and Release Forms.
- Section II.** Authorize the Mayor of the City of Wharton to sign the EXHIBIT K Subdivision Participation and Release Forms.
- Section III.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The tenth item on the agenda was to review and consider the Amendment to Contract Agreement with the Texas Municipal League Health Benefits Pool (TML Health Benefits Pool):

- A. Resolution: A resolution of the Wharton City Council approving the amendment to the Texas Municipal League (TML) Health Benefits Pool Agreement and; Authorizing the Mayor of the City of Wharton to execute all documents relating to said agreement.

City Secretary, Paula Favors, presented a copy of the Benefit Waiting Period Change Form from the TML Health Benefits Pool. Mrs. Favors stated TML sent the City a notice regarding the Pool's Contribution Policy that would be changing as of May 1, 2023. She said that in the past, TML Health waived contributions for the first partial month of coverage when a new hire's benefits start in the middle of the month but due to the cost increase in claims and pharmacy, the Pool was no longer able to waive the fee. Mrs. Favors said that three options had been given for the City to choose from and they were as follows:

1. Benefits become effective on the first day of the month following a new employee's start date.
2. Benefits become effective on the first day of the month following 30 days after the new employee's start date.
3. Benefits become effective on the first day of the month following 60 days after a new employee's start date.

City Secretary Favors stated that it was City Staff's recommendation that the City Council consider approving Option #1 which would allow benefits to become effective on the first day of the month following a new employee's start date. After some discussion, Councilmember, Larry Pittman, moved to approve City of Wharton Resolution No. 2023-12, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-12**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE AMENDMENT TO THE TEXAS MUNICIPAL LEAGUE (TML) HEALTH BENEFITS POOL AGREEMENT AND; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, The City of Wharton received the amendment to the agreement from the Texas Municipal League (TML) Health Benefits Pool for the benefit waiting period; and,

WHEREAS, The City of Wharton wishes to continue with the Texas Municipal League (TML) Health Benefits Pool for the administration of Health Benefits; and,

WHEREAS, The City of Wharton would provide to each full time eligible employee with the TML Health Benefits Pool becoming effective the first day of the month following the employee's date of hire.

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

- Section I.** That the Wharton City Council hereby approves the amendment to the agreement with the Texas Municipal League (TML) Health Benefits Pool.
- Section II.** That Wharton City Council hereby approves coverage for all eligible full-time employees through the Texas Municipal League (TML) Health Benefits Pool to be effective on the first day of the month following the employee's date of hire.
- Section III.** That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned agreements.
- Section IV.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council authorizing submission of applications to the Texas Water Development Board Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) and authorizing the Mayor of the City of Wharton to execute all documents related to said submission. Director of Planning & Development, Gwyn Teves, stated the City staff was contacted by the Texas Water Development Board and advised of the application periods for the CWSRF & DWSRF applications and that both of the City's projects submitted last year were roll over eligible. Mrs. Teves said that the City had a pending application for the Mayfair-Linwood Water Line Replacements that had been rollover eligible since 2018 and the application had been advanced every year but had not been funded. She said it was the City Staff's recommendation that this

application be rolled over for the CWSRF application and that the City had a pending application for the Waste Water Treatment Plant 1 (WWTP 1) Replacement & Rehabilitation and this was the first eligible roll over for this project for the DWSRF application. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2023-13, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-13**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING SUBMISSION OF APPLICATIONS TO THE TEXAS WATER DEVELOPMENT BOARD CLEAN WATER STATE REVOLVING FUND (CWSRF) AND DRINKING WATER STATE REVOLVING FUND (DWSRF) AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID SUBMISSION.

WHEREAS, The City of Wharton City Council wishes authorize the submission of applications to the Texas Water Development Board Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF); and,

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

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

SECTION I. The Wharton City Council hereby approves the submittal of applications to the Texas Water Development Board Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF).

SECTION II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said application.

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

PASSED, APPROVED, and ADOPTED this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council approving and ratifying a Memorandum of Agreement with the Texas Historical Commission regarding the Single-Family Housing GLO Contract 19-076-050-B703 Project and authorizing the Mayor of the City of Wharton to execute all documents related to said Memorandum of Agreement. Director of Planning & Development, Gwyn Teves, stated that as a newly designated Historical District by the Texas Historical Commission, the GLO was requiring that the City enter into a Memorandum of Agreement (MOA) for 1517 Harris Street for the Wharton SFH 19-076-050-B703 Project. Mrs. Teves said this property was identified by the Texas Historical Commission to be a contributing resource to the newly formed West End Historic District, therefore, the Texas Historical Commission required this MOA in order to allow the project to proceed as planned. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-14, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-14**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AND RATIFYING
A MEMORANDUM OF AGREEMENT WITH TEXAS HISTORICAL COMMISSION
REGARDING THE SINGLE-FAMILY HOUSING GLO CONTRACT 19-076-050-B703
PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO
EXECUTE ALL DOCUMENTS RELATED TO SAID MEMORANDUM OF AGREEMENT.**

WHEREAS, The City of Wharton City Council wishes to ratify and enter into a Memorandum of Agreement with the Texas Historical Commission regarding the single-family housing GLO contract 19-076-050-B703 Project; and,

WHEREAS, The Memorandum of Agreement is specifically for the applicant at 1517 Harris St., Wharton, Texas; and,

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

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

SECTION I. The Wharton City Council hereby ratifies and approves the Memorandum of Agreement with the Texas Historical Commission regarding the single-family housing GLO contract 19-076-050-B703 Project.

SECTION II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said Memorandum of Agreement.

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

PASSED, APPROVED, and ADOPTED this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

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

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

After some discussion, no action was taken.

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

The meeting adjourned at 7:31 p.m.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
FEBRUARY 27, 2023**

Mayor, Tim Barker, declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. at City Hall 120 E. Caney Street Wharton, TX. Pastor, Adraylle Watson, led the opening devotion and Mayor, Tim Barker, led the pledge of allegiance.

Councilmember's present were: Mayor, Tim Barker, and Councilmembers, Terry Freese; Clifford Jackson; Russell Machann; Don Mueller; Larry Pittman and Steve Schneider.

Councilmember absent was: None.

Staff members present were: Assistant City Manager, Paula Favors; City Attorney, Paul Webb; Finance Director, Joan Anandel; Director of Planning and Development, Gwyn Teves, CPM; Assistant to the City Manager, Brandi Jimenez; Public Works Director, Anthony Arcidiacono; Building Official, Claudia Velasquez; Code Enforcement Officer, Nathan Vogt; Building Official, Claudia Velasquez; Police Chief, Terry David Lynch; Patrol Lieutenant, Lance Bothell and Civic Center Manager, Makyla Monroe.

Visitors present were: Valerie Jefferson; Sammy Wisnieski; Desurae Matthews; Adraylle Watson and Joe Southern with the Wharton Journal Spectator.

Roll Call and Excused Absences.

All Councilmembers were present.

Public Comments.

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

Wharton Moment.

Councilmember, Terry Freese, thanked Facilities Maintenance Director, Bob Baker, and his staff for the great job of installing the batting cages for the girls' softball teams.

Review and Consider:

The first item on the agenda was to review and consider City of Wharton Financial Report for January 2023. Finance Director, Joan Anandel, presented the City of Wharton Financial Report for January 2023. After some discussion, Councilmember, Russell Machann, moved to approve consider City of Wharton Financial Report for January 2023. Councilmember, Don Mueller, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider an ordinance approving an Amendment to the City of Wharton, Texas, Budget for the 2021-2022 Fiscal Year. Finance Director, Joan Anzel, presented a copy of a memorandum regarding the amendment to the City of Wharton, Texas, Budget for the 2021-2022 Fiscal Year. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Ordinance No. 2023-02, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2023-02**

**AN ORDINANCE APPROVING AN AMENDMENT TO
THE CITY OF WHARTON, TEXAS, BUDGET FOR
THE 2021-2022 FISCAL YEAR.**

WHEREAS, The City Council of the City of Wharton, Texas finds and determines it necessary to revise the 2021-2022 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 2021-2022 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 Councilmember District No. 1	Voted <u>Yes</u>	Steven Schneider Councilmember District No. 2	Voted <u>Yes</u>
Terry Freese Councilmember District No. 3	Voted <u>Yes</u>	Donald Mueller Councilmember District No.4	Voted <u>Yes</u>
Russell Machann Councilmember at Large No. 5	Voted <u>Yes</u>	Larry Pittman Councilmember at Large No. 6	Voted <u>Yes</u>
Tim Barker Mayor	Voted <u>Yes</u>		

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 27th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

ADMISSION:

PAUL WEBB
City Attorney

JOAN ANDEL
Director of Finance

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

The third item on the agenda was to review and consider a request from Ms. Desurae Matthews to hold the annual Springfest on April 9, 2023, at Harris Park and assistance from the City for the following:

- A. Allow food vendors for the event.
- B. Waive any food vendor fees.
- C. Additional trash cans and liners.
- D. Lighting.

Ms. Desurae Matthews presented a copy of her request to the City Council to hold the annual Springfest at Harris Park on April 9, 2023. Ms. Matthews stated that she was requesting the afore mentioned items A. through D. After some discussion, Councilmember, Larry Pittman, moved to approve the request from Ms. Desurae Matthews to hold the annual Springfest on April 9, 2023, at Harris Park and assistance from the City for the afore mentioned items A. through D. Councilmember, Terry Freese, seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a request by Ms. Valerie Jefferson for an additional extension to the Variance for Temporary Placement of Travel Trailer for Temporary Housing at 212 E. Dahlgren Ave. Director of Planning & Development, Gwyn Teves, stated Ms.

Jefferson was granted a temporary variance of Chapter 38-Manufactured Housing, Mobile Homes and Travel Trailers; Article II-Requirements Concerning Mobile Homes, Manufactured Housing and Travel Trailers; Division 3-Recreational Vehicles of 1-year on May 24, 2021, allowing her to place and live in a Travel Trailer at 212 E. Dahlgren Ave. while constructing a new home. Mrs. Teves said that Ms. Jefferson was later granted an additional 8-month extension on July 11, 2022, expiring on January 24, 2023. She said that Ms. Jefferson was requesting an additional 90-day extension to the Travel Trailer variance and after conferring with Claudia Velasquez, Building Official, it was the City Staff's recommendation that the extension not be granted. Ms. Velasquez presented a copy of a memorandum on the status of the lack of progress at Ms. Jefferson's property to the City Council. Ms. Jefferson stated that she was moving forward on the project and it would be completed soon. After some discussion, Councilmember, Russell Machann, moved to extend the variance for Temporary Placement of Travel Trailer for Temporary Housing at 212 E. Dahlgren Ave for 45 days with the understanding that progress pictures of the construction be provided the the City Council. Councilmember, Clifford Jackson, seconded the motion. All voted in favor.

The fifth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 2, Administration, Article V, Division 2, Beautification City Commission, Sections 2-122. Building Official, Claudia Velasquez, presented a copy of her request to amend the membership requirements pertaining to the City of Wharton Code of Ordinances, Chapter 2 for Article V- Boards, Commission and Similar Entities, Division 2- Beautification Commission, Sec. 2-122. Membership – Modifying recommendation for appointments. After some discussion, Councilmember, Clifford Jackson, moved to approve City of Wharton Ordinance No. 2023-03, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2023-03**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES,
CHAPTER 2, ADMINISTRATION, ARTICLE V, DIVISION 2, BEAUTIFICATION
CITY COMMISSION, SECTIONS 2-122.**

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that Chapter 2, Administration, Article V, Division 2, Beautification City Commission, Section 2-122 be amended to read as follows:

Sec. 2-122. - Membership.

- (a) The beautification city commission shall be comprised of seven members to be appointed by the city council and shall be residents of the city or shall have businesses in the city. One of the seven members of the commission shall be recommended for appointment to the City Council by the Wharton Chamber of Commerce.

Severability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be

a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Effective Date

This Ordinance shall become effective on the 24th day of June, 2022 at 12:01 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 27th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The sixth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the purchase of an air conditioning unit for the O’Quinn Room of the Wharton Civic Center and authorizing the City Manager of the City of Wharton to execute all documents related to said purchase. Civic Center Manager, Makyla Monroe, presented a copy of an estimate from Roberson AC for a new air conditioning unit in the O’Quinn Room at the Wharton Civic Center in the amount of \$13,289.00. Ms. Monroe stated the current unit was from 1989 and Roberson AC had diagnosed that the unit cannot be repaired. She said the City Staff was requesting that the City Council consider awarding the contract to Roberson AC for this project. Ms. Monroe stated that the second unit in the O’Quinn Room was also installed by Roberson AC and this would allow all air conditioning maintenance for this room to be handled by Roberson AC. She said the Finance

Committee met on Monday, February 27, 2023, and were recommending the City Council consider approving the request. After some discussion, Councilmember, Don Mueller, moved to approve City of Wharton Resolution No. 2023-15, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-15**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF AN AIR CONDITIONING UNIT FOR THE O'QUINN ROOM OF THE WHARTON CIVIC CENTER AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PURCHASE.

WHEREAS, The Wharton City Council wishes to approve Roberson AC for the air conditioning unit for the O'Quinn Room of the Wharton Civic Center in the amount of \$13,289; and,

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

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

Section I. The Wharton City Council hereby authorizes the City Manager of the City of Wharton, Texas, to execute all documents related to the purchase of the air conditioning unit for the O'Quinn room of the Wharton Civic Center to Roberson AC in the amount of \$13,289.

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

Passed, Approved, and Adopted this 27th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the City Manager to purchase a vehicle for the Public Works Department and authorizing the City Manager to execute all documents related to said purchase. Public Works Director, Anthony Arcidiacono, presented a copy of his memorandum regarding the purchase of a vehicle for the Public Works Department. Mr. Arcidiacono requested the City Council consider approving the purchase of a vehicle for the Public Works Department from Wharton Ford in the amount of \$36,988. He said the three quotes received were as follows:

Wharton Ford: \$36,988.00
Legacy Ford: \$46,900.00
Cook Ford: \$41,789.00

After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-16, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-16**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER TO PURCHASE A VEHICLE FOR THE PUBLIC WORKS DEPARTMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID PURCHASE.

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

WHEREAS, Wharton Ford was deemed the best lowest qualified bidder in the amount of \$36,988.00; and,

WHEREAS, The Wharton City Council wishes to approve Wharton Ford for the purchase of a vehicle for the Public Works Department in the amount of \$36,988.00; and,

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

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

Section I. The Wharton City Council hereby authorizes the City Manager of the City of Wharton, Texas, to execute all documents related to the purchase of said vehicle with Wharton Ford in the amount of \$36,988.00.

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

Passed, Approved, and Adopted this 27th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eighth item on the agenda was to review and consider a resolution a resolution of the Wharton City Council accepting the Bay Area Council on Drugs & Alcohol (BACODA) Grant Agreement awarding \$61,700.13 towards installation of equipment and fencing for a dog park. Building Official, Claudia Velasquez, stated that on January 18, 2023, the Bay Area Council on Drugs & Alcohol (BACODA) announced they would fully fund the Beautification Commission Dog Park Project in the amount of \$61,700.13. Mrs. Velasquez said the City Council approved to implement and fundraise for a Dog Park in an existing City Park in January 2022 and the Beautification Commission and City Liaison received notification that the project had been selected for award and funding. She said the Parks & Recreation Committee met on Monday, February 27, 2023 and were recommending the City Council consider accepting the award. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2023-17, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-17**

A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING THE BAY AREA COUNCIL ON DRUGS & ALCOHOL (BACODA) GRANT AGREEMENT AWARDING \$61,700.13 TOWARDS INSTALLATION OF EQUIPMENT AND FENCING FOR A DOG PARK.

WHEREAS, The City of Wharton was notified January 18, 2023, of a \$61,700.13 grant for installation of equipment and fencing for a dog park, and,

WHEREAS, The Wharton City Council wishes to accept the Bay Area Council on Drugs & Alcohol (BACODA) agreement and authorize the Mayor of the City of Wharton to execute all documents related to 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 accepts the Bay Area Council on Drugs & Alcohol (BACODA) agreement and authorizes the Mayor of the City of Wharton to execute all documents related to the agreement.

Section II. The City of Wharton and the Bay Area Council on Drugs & Alcohol (BACODA) 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 27th day of February, 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council awarding a contract for the installation of fencing and equipment for the Dog Park and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. Building Official, Claudia Velasquez, stated on January 10, 2022, the City Council approved to implement and fundraise for a Dog Park in an existing City Park. Mrs. Velasquez said that with fundraising efforts and assistance from Bay Area Council on Drugs & Alcohol (BACODA) the Dog Park would be fully funded to build the Dog Park located at 900 N. Fulton. Assistant City Manager, Paula Favors, stated the Parks & Recreation Committee met on Monday, February 27, 2023, and further review of the proposed location was needed. Mrs. Favors said that this item would be brought back before the Council at a later time after the review was completed. After some discussion, no action was taken.

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council approving Change Order # 1 for Application #GLO17-12843-P, pertaining to the Community Development Block Grant Program (CDBG-DR) Contract Number 19-076-050-B703. Director of Planning & Development, Gwyn Teves, stated that after completing construction on the applicant's home, at 122 Moutray, the cost for the required insurance came in below the estimated cost and in turn had resulted in the need for a Change Order for Application #GLO17-12843-P.

Mrs. Teves said the Change Order for Application #GLO17-12843-P was a reduction of \$1,998.95. After some discussion, Councilmember, Clifford Jackson, moved to approve City of Wharton Resolution No. 2023-18, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-18**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING CHANGE ORDER # 1 FOR APPLICATION #GLO17-12843-P PERTAINING TO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG-DR) CONTRACT NUMBER 19-076-050-B703.

WHEREAS, The City of Wharton has received a Community Development Block Grant-Disaster Recovery award for damage sustained from 2016 Presidentially declared flooding; and,

WHEREAS, A Change Order has been provided to reduce the contract cost for Application #GLO17-12843-P in the amount of \$1,998.95; and,

WHEREAS, The Wharton City Council wishes to approve Change Order # 1 for Application #GLO17-12843-P pertaining to the Community Development Block Grant Program (CDBG-DR) Contract Number 19-076-050-B703; and,

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

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

Section I. The Wharton City Council hereby approves Change Order # 1 for Application #GLO17-12843-P pertaining to the Community Development Block Grant Program (CDBG-DR) Contract Number 19-076-050-B703.

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

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

Passed, Approved and Adopted this 27th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council authorizing negotiating a contract for easement acquisition services for the I-69 Utility Relocation and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. Director of Planning & Development, Gwyn Teves, stated the City Council approved the Utility Service Agreement with TxDOT on January 23, 2023 and as an exhibit in that agreement, the engineers costs for acquisition services were estimated to be \$26,000. Mrs. Teves said that with the information provided and per the City's purchasing policy, the City Staff sent a Request for Proposals to the following firms since costs were expected to come in below the \$50,000.00 threshold, they were as follows:

1. Atrium Real Estate (HUB)
2. LV Right of Way & Real Estate Services, Inc. (HUB)
3. Overland, Pacific & Cutler, LLC
4. HDR Engineering, Inc.
5. Percheron Professional Services, LLC

She said proposals were only received back from HDR and Percheron, both of which the City had worked with previously and both of which had provided prior timely and professional services and the proposals showed HDR with the lowest cost estimate, however, costs could be negotiated with both companies. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-19, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-19**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING NEGOTIATING A CONTRACT FOR EASEMENT ACQUISITION SERVICES FOR THE I-69 UTILITY RELOCATION AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, The Wharton City Council wishes to approve negotiating a contract between the City of Wharton and HDR Engineering, Inc., for easement acquisition services for the I-69 Utility Relocation; and,

WHEREAS, The City of Wharton and Wharton and HDR Engineering, Inc., wishes to be bound by the conditions as set forth in the agreement.; and,

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

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

- Section I.** The Wharton City Council hereby authorizes the Mayor of the City of Wharton to negotiate and execute the contract with Wharton and HDR Engineering, Inc., for easement acquisition services for the I-69 Utility Relocation.
- Section II.** The City of Wharton and Wharton and HDR Engineering, Inc., are hereby bound by the conditions as set forth in the contract.
- Section III.** That this resolution shall become effective immediately upon its passage.

PASSED, APPROVED, and ADOPTED this 27th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The twelfth item on the agenda was to review and consider Pay Request No. 1 from Insituform Technologies, LLC., for the S. East Ave. Sanitary Sewer Repairs Contract 7220499. Director of Planning & Development, Gwyn Teves, presented Pay Request No. 1 from Insituform Technologies for the S. East Ave. Sanitary Sewer Repairs Contract 7220499 in the amount of \$9,585.00. After some discussion, Councilmember, Russell Machann, moved to approve, Pay Request No. 1 from Insituform Technologies, LLC., for the S. East Ave. Sanitary Sewer Repairs Contract 7220499 in the amount of \$9,585.00. Councilmember, Don Mueller, seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider Pay Request No. 2 and Final from HTI Construction for the Armstrong Street Waterline Improvements. Director of Planning & Development, Gwyn Teves presented a copy of Pay Request No. 2 and Final from HTI Construction for the Armstrong Street Waterline Improvements in the amount of \$89,972.20. After some discussion, Councilmember, Clifford Jackson, moved to approve Pay Request No. 2 and Final from HTI Construction for the Armstrong Street Waterline Improvements in the amount of \$89,972.20. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

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

The fifteenth item on the agenda was to review and consider an update of City of Wharton on-going Projects. Assistant City Manager, Paula Favors, presented a copy of City Manager, Joseph R. Pace's memorandum dated February 13, 2023 regarding the City of Wharton on-going projects, which read as follows:

DRAINAGE:

1. On-going Drainage and Maintenance Program.

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

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

Installation of the drainage pipes was completed. The City Public Works Department will be regrading ditches to improve the drainage in the area. The project is listed as one of the construction projects to be completed with the Texas Water Development Board (TWDB) Flood Infrastructure Fund Program. The Public Works Department has also been looking at this project to possibly complete in-house by City Crews.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

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

STREET IMPROVEMENTS:

1. I-69 Project.

The City submitted the comments as approved by the City Council to TxDOT. TxDOT has informed the City that CivilCorp engineering has begun design and the City is involved in regular coordination meetings. City staff is coordinating with Quiddity Engineering on utility relocations of water and sewer lines along I-69 that will be impacted by the expansion. 3 easements will have to be acquired by City Staff to replace existing easements on US59 to relocate the existing sanitary sewer facilities. City Staff is working with TxDot and Quiddity to compose a reimbursement agreement to be brought to the City Council.

2. NanYa Exit Ramp Project.

TxDOT has been coordinating with NanYa and JM Eagle on the exit design. As of last coordination meeting the ramp has been implemented in the design with a turnaround under the FM 102 overpass to allow for easy access to the retail area on the alternate side of the Interstate.

HOUSING

1. FM 1301 Housing Development – Waterstone Development

Approximately 500 homes on 31.294 acres to be developed. Public Improvement District petition adopted by the City Council on August 8th, 2022. Development currently on hold due to current market status. Regular contact with the developer is being maintained.

2. Milam/Alabama Housing Development – Wharton 55 LLC

Approximately 225 homes on 55 acres to be developed. Development agreement adopted by City Council November 2022. Developer in process of finalizing platting and civil engineering. Ongoing contact with developer being maintained.

After some discussion, no action was taken.

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

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

Assistant City Manager, Paula Favors, stated the Beautification Commission was requesting the City Council consider approving removing Mrs. Stephanie Konvicka from the the board since she had not met her meeting attendance requirements per their bylaws and appoint Ms. Barbie Fortenberry to the position. After some discussion, Councilmember, Russell Machann, moved to approve the removal of Stephanie Konvicka from the Beautification Commission and appoint the following:

- | | | |
|--------------------|---------------------------|---------------|
| A. Appointments. | Term Expiring: | |
| Barbie Fortenberry | Beautification Commission | June 30, 2023 |

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

The seventeenth item on the agenda was to review and consider the City Manager’s Reports:

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

- M. Water/Sewer Department.
- N. Weedy Lots/Sign Ordinance.
- O. Wharton Regional Airport.

After some discussion, no action was taken.

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

The meeting adjourned at 7:33 p.m.

CITY OF WHARTON, TEXAS


By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

CITY COUNCIL COMMUNICATION

Meeting Date:	3/13/2023	Agenda Item:	Request from Mr. Olan Bengé of 603 Salisbury Drive, Briargrove Section 1, Block 12C Pt., for a 12-foot variance from the required 25-foot front property line setback resulting in a 13-foot setback for the installation of a carport.
<p>Attached you will find the request from Mr. Olan Bengé of 603 Salisbury Drive, Briargrove Section 1, Block 12C Pt., for a 12-foot variance from the required 25-foot front property line setback resulting in a 13-foot setback for the installation of a carport.</p> <p>The Planning Commission met on March 6, 2023, and voted to recommend this item to the City Council for consideration.</p> <p>Director of Planning & Development, Gwyn Teves, will be present to answer any questions.</p>			
City Manager: Joseph R. Pace		Date: Thursday, March 9, 2023	
Approval: 			
Mayor: Tim Barker			



City of Wharton

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

MEMORANDUM

DATE: March 6, 2023
FROM: Mike Wootton, Planning Commission Chairperson
TO: Honorable Mayor and City Council
SUBJECT: Recommendation to City Council from the Planning Commission Meeting held Monday, March 6, 2023

The following items were discussed during the Monday, March 6, 2023, meeting:

1. Request from Mr. Olan Bengé of 603 Salisbury Dr., Briargrove Section 1, Block 12C Pt. for a 12-foot variance from the required 25-foot front property line setback resulting in a 13-foot setback for the installation of a carport.

The Planning Commission is recommending approval on the above item and is referring it to City Council for a final decision.

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

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

Item-2.

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

Olan Bengt 2-23-23
 Name (Printed) Date
603 Salisbury Ln, Wharton, Tx 77438 Same: 603 Salisbury Ln
 Physical Address Mailing Address
Briargrove Sec. 1, Block 12c pt. 979-533-4543
 Legal Address Phone

Describe the variance request and the reason for requesting variance:

Carport Cover for Driveway
closes side is 13'5" from property line
32' from Road

ATTACH A SITE PLAN WITH DIMENSIONS TO PROPERTY LINES:

SIGNATURE OF APPLICANT:

[Signature] 2-23-23
 Signature Date
 Planning Commission Meeting: 3/06/23 @ 4:30p
 City Council Meeting: 3/13/23 @ 7:00p.

Building line setbacks Only	
Residential	\$100.00 <input checked="" type="checkbox"/>
Non-Residential	\$150.00 <input type="checkbox"/>
Non-Refundable fee	
Effective November 3, 2006	

ADJACENT PROPERTY OWNER (S):

Olan Bengt II
 Name
Briargrove Sect. 1, Block 12c pt.
 Legal Address
Luzmila Gramann
 Name
Briargrove, Block 12D, 12N
 Legal Address

 Phone
707 Salisbury Ln
 Physical Address

 Phone
737 Salisbury Ln.
 Physical Address

 Name

 Legal Address

 Phone

 Physical Address

APPROVAL:

[Signature]
 Planning Department

2.27.2023
 Date

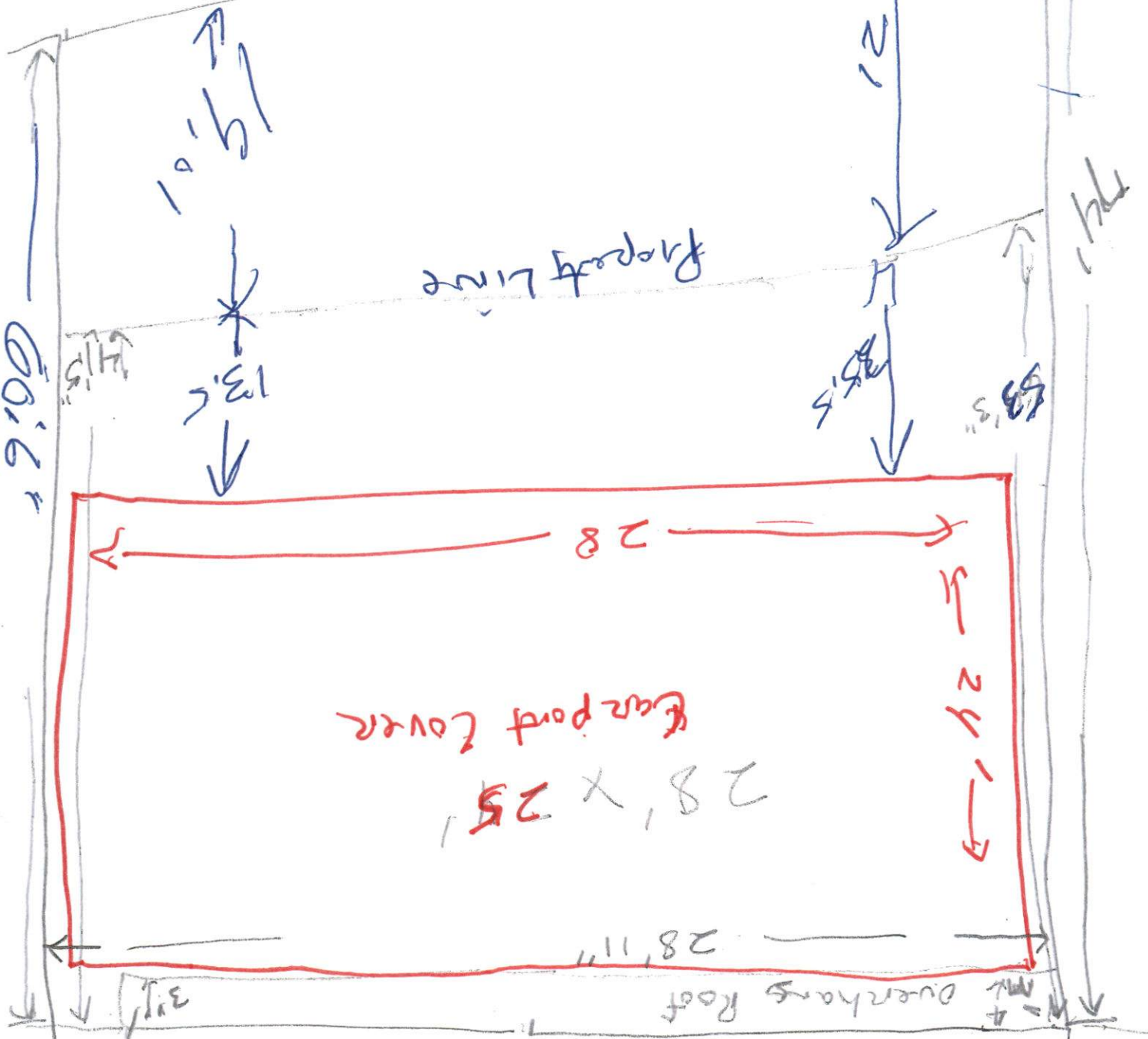
 Chairman of the Planning Commission

 Date

 Mayor

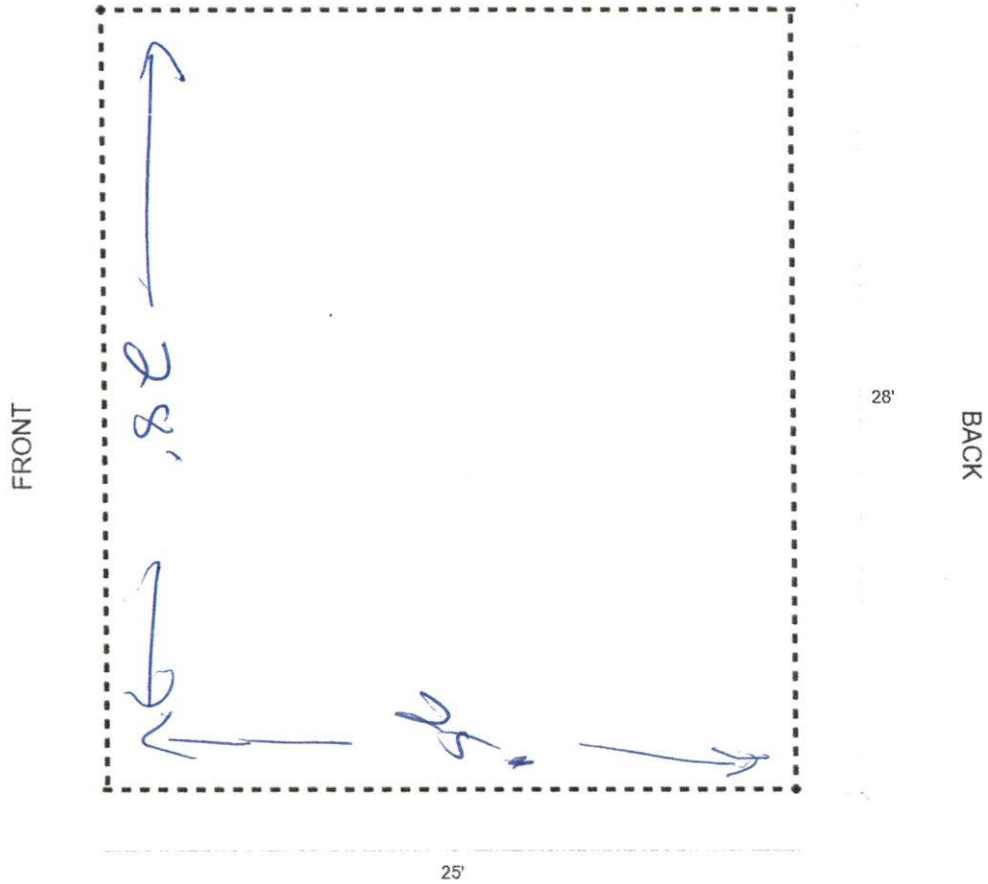
 Date

603 Salisburgh
Street



603 Salisburgh

LEFT SIDE



SYMBOL LEGEND

---- Open Wall

CUSTOMER olan Benge

DEALER ID #

PHONE #

STATE

ZIP CODE


DISCLAIMER

If building does not meet proper compliance and verification for wind/snow rating, your request will be screened by our team and you will be made aware of the necessary changes.

BUILD # 1677089066454744

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

CITY COUNCIL COMMUNICATION

Meeting Date:	3/13/2023	Agenda Item:	Wharton County Farmers Market: A. Request from the Wharton County Farmers Market for the following: <ol style="list-style-type: none"> 1. Use of Riverfront Park for the Wharton County Farmers Market for the Spring Market from April 8, 2023, through July 1, 2023, and Fall Market from September 30, 2023, through December 23, 2023. 2. Allow glass containers. 3. Waive all park fees. B. Resolution: A resolution of the Wharton City Council approving a Memorandum of Understanding between the City of Wharton and the Wharton County Farmers Market regarding the use of Riverfront Park’s Storage Space and authorizing the Mayor of the City of Wharton to execute all documents related to said Memorandum of Understanding.
<p>Attached you will find the request submitted by Ms. Kodi Kieler, President of the Wharton County Farmer’s Market, requesting the use of Riverfont Park for the Spring Market starting on April 8, 2023, and ending on July 1, 2023, and the Fall Market starting on September 30, 2023, and ending on December 23, 2023. The hours of the market are from 8:00 a.m. to allow for set up and opening from 9:00 a.m. to 1:00 p.m. They are also requesting permission to allow glass containers in Riverfront Park.</p> <p>Also, attached you will find a draft Memorandum of Understanding between the City of Wharton and the Wharton County Farmers Market for the use of Riverfront Park’s Storage Spare.</p> <p>City Attorney, Paul Webb, has reviewed the Memorandum of Understanding.</p> <p>Ms. Kieler will be present to answer any questions.</p>			
City Manager: Joseph R. Pace		Date: Thursday, March 9, 2023	
Approval: 			
Mayor: Tim Barker			

I, Kodi Kieler, President of the Wharton County Farmers Market, am requesting the use of Riverfront Park for the Wharton County Farmers Market for the dates of April 8th- July 1st, 2023.

I would also like to request the dates for our fall season- September 30, 2023- December 23, 2023.

I am also asking for all of the park fees to be waived for both seasons and to allow glass containers in the park.

I am also requesting the use of the storage space behind Riverfront Park for the dates of March 6th, 2023- March 6th 2024.

Thank you,

Kodi Kieler

MEMORANDUM OF UNDERSTANDING (“MOU”) BETWEEN THE CITY OF WHARTON AND WHARTON COUNTY FARMERS MARKET

WHEREAS, City of Wharton (“City”) has Riverfront Park, a public city park; and,

WHEREAS, the Wharton County Farmers Market has requested of the City the use of Riverfront Park’s storage space behind the park restrooms for their storage use; and,

WHEREAS, there is a need to formulate the responsibilities of the Wharton County Farmers Market and the City for the management and use of Riverfront Park’s storage space behind the park restrooms that the Wharton County Farmers Market will use.

BE IT THEREFORE AGREED AS FOLLOWS:

The Wharton County Farmers Market will have use of Riverfront Park Storage Building from _____ until _____ and continue a year-to-year basis until terminated by either party upon ninety (90) days written notice.

The Wharton County Farmers Market will be responsible for the maintenance of that portion of the park for the time that it is under their control and must be in at least as good of condition as it was upon entry.

The Wharton County Farmers Market will make no change or modifications to the building located thereon without written consent of the City.

The Wharton County Farmers Market acknowledges that it is not claiming ownership interests in the property.

The Wharton County Farmers Market hereby agrees to hold harmless the City of Wharton from and against all claims, actions, damages, liabilities and expenses asserted against the City on account of damage to property when and to the extent that any such damage may be caused, either proximately or remotely, wholly or in part, by any act or omission, whether negligent or not, of the City or any City’s agents, servants, employees, or contractors, or any other person entering upon the property.

The Wharton County Farmers Market shall make sure the building is secure and always locked.

The Wharton County Farmers Market must turn in keys to City Hall at the end of each season.

The Wharton County Farmers Market leases said building in the amount of one dollar (\$1.00) annually.

IN WITNESS WHEREOF, the City and the Wharton County Farmers Market hereto have caused this MOU to be duly executed on this _____ day of _____, 2023.

City of Wharton

Wharton County Farmers Market

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**CITY OF WHARTON
RESOLUTION NO. 2023-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WHARTON AND THE WHARTON COUNTY FARMERS MARKET REGARDING THE USE OF RIVERFRONT PARK'S STORAGE SPACE AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID MEMORANDUM OF UNDERSTANDING.

WHEREAS, The City of Wharton City Council wishes to approve a Memorandum of Understanding with the Wharton County Farmers Market regarding the use of Riverfront Park's Storage Space; and,

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

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

SECTION I. The Wharton City Council hereby approves the Memorandum of Understanding with the Wharton County Farmers Market regarding the use of Riverfront Park's Storage Space.

SECTION II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said Memorandum of Understanding.

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

PASSED, APPROVED, and ADOPTED this 13th day of March 2023.

CITY OF WHARTON, TEXAS

By: _____

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary


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

CITY COUNCIL COMMUNICATION

Meeting Date:	3/13/2023	Agenda Item:	Resolution: A resolution of the Wharton City Council approving a lease agreement between the City of Wharton and Hesed House of Wharton for use of the Dickson Rowan House located in Dinosaur Park, 421, 421A, 421B, 501 and 505 Colorado Street and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement.
<p>On September 9, 2019, the Wharton City Council approved a lease agreement with Hesed House of Wharton, a nonprofit 501(c) 3 organization, for the lease of the Dickson Rowan House at Dinosaur Park. The Hesed House has been providing numerous services to the community since opening as outlined in the original lease agreement beginning November 13, 2018.</p> <p>On April 26, 2021, Ms. Konvicka, presented a proposal to the City Council Parks and Recreation Committee and City Council for an expansion of services and extension of the current lease to include the three adjoining houses at 421, 421A & 421B Colorado Street owned by the City of Wharton. The City Council approved a new lease with Hesed House of Wharton Texas to include the houses at Dinosaur Park, 421, 421A & 421B Colorado Street for a term of ten (10) years with a one (1) time renewal of five (5) years.</p> <p>The programs and funding at the Hesed House have been growing daily and it is the intent of Hesed House to further expand services, if approved, to include the adjoining properties of 501 and 505 Colorado Street to the lease to incorporate a new technology center and provide possible space for the Wharton County Recovery Team in times of need.</p> <p>It has also been requested to expand the lease to a twenty-five (25) year term to provide more stability to the funders who are generously providing funds to continue the programs and expansion that we have seen on the property. There would be a twelve (12) month termination clause to allow for the move and set up of the services at a new location or termination of the program if this was ever to happen.</p> <p>City Attorney, Paul Webb, has reviewed the lease and has recommended a six (6) month termination clause, but Hesed House and their board are requesting the twelve (12) month termination time remain. Mr. Webb had no other recommendations for modifications and approved the remainder of the lease.</p> <p>Attached are the draft resolution and draft lease.</p>			

The Parks & Recreation Committee will meet on Monday, March 13, 2023, and will formulate a recommendation for City Council consideration.

Director of Planning & Development, Gwyn Teves, will be present to answer any questions.

City Manager: Joseph R. Pace	Date: Thursday, March 9, 2023
Approval: 	
Mayor: Tim Barker	



City of Wharton

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

MEMORANDUM

DATE: March 8, 2023
FROM: Gwyneth Teves, Director of Planning & Development
TO: Honorable Mayor and City Council
SUBJECT: Expansion and modification to Lease with Hesed House of Wharton

On September 9, 2019, the Wharton City Council approved a lease with Hesed House of Wharton, a nonprofit 501(c)3 organization, for the lease of the Dickson Rowan House at Dinosaur Park. The Hesed House has been providing numerous services to the community since opening as outlined in the original lease agreement beginning November 13, 2018.

On April 26, 2021, Ms. Konvicka presented a proposal to the City Council Parks and Recreation Committee and City Council for an expansion of services and extension of the current lease to include the three adjoining houses at 421, 421A & 421B Colorado Street owned by the City of Wharton. The City Council approved a new lease with Hesed House of Wharton Texas to include the houses at Dinosaur Park, 421, 421A & 421B Colorado Street for a term of ten (10) years with a one (1) time renewal of five (5) years.

The programs and funding at the Hesed House have been growing daily and it is the intent of Hesed House to further expand services is approved to include the adjoining properties of 501 & 505 Colorado Street to the lease to incorporate a new technology center and provide possible space for the Wharton County Recovery Team in times of need.

It has also been requested to expand the lease to a twenty-five (25) year term to provide more stability to the funders who are generously providing funds to continue the programs and expansion that we have seen on the property. There would be a twelve (12) month termination clause to allow for the move and set up of the services at a new location or termination of the program if this was ever to happen.

City Attorney, Paul Webb, has reviewed the lease and has recommended a six (6) month termination clause, but Hesed House and their board are requesting the twelve (12) month termination time remain. Mr. Webb had no other recommendations for modifications and approved the remainder of the lease.

Attached are the draft resolution and draft lease.

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

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF WHARTON §

LEASE AGREEMENT

This lease, made this ____ day of _____ 2023, by and between the **CITY OF WHARTON, TEXAS**, a municipal corporation, hereinafter referred to as Lessor, and the Hased House of Wharton, Inc., a nonprofit corporation of Wharton County, Texas, hereinafter referred to as Lessee:

WITNESSETH:

That for and in consideration of the rentals of One Dollar (\$1.00) per year to be paid, and the mutual covenants herein contained, Lessor does hereby lease to Lessee the following described premises as is, situated in the City of Wharton, Wharton County, Texas, to – wit which will be open to the public and for the benefit of the public:

That certain building known as the Dickson -Rowan House, located in Dinosaur Park a part of Riverfront Park, Colorado Street, in the City of Wharton, Wharton County, Texas.

421 Colorado St., WHARTON BLOCK 60 LOT 5

421A Colorado St., WHARTON BLOCK 60 LOT 5-1

421B Colorado St., WHARTON BLOCK 60 LOT 5C

501 Colorado St., WHARTON BLOCK 60 LOT 4

505 Colorado St., WHARTON BLOCK 60 LOT 1A, 2A, 3, 3A

TO HAVE AND TO HOLD the demised premises unto Lessee, from the ____ day of _____ 2023, for and during the full term of twenty-five (25) years and terminating the ____ day of _____ 2048. This lease shall be renewable for one (1) term of ten (10) years upon mutual agreement of both parties. Should one party choose not to extend the lease, the other party shall receive one hundred eighty (180) days’ notice. As consideration for the granting of said lease, Lessee shall, in lieu of paying actual cash, do and perform the following:

Lessee shall keep the buildings and premises in a clean and neat order and perform all minor repairs at Lessee's sole cost and expense during the twenty-five (25) year term of this lease.

Minor repairs to be defined as repairs not to exceed \$1500.00 per repair. Any repairs over and above that amount shall be discussed with the City Manager and decision made regarding those repairs between the Lessee and the Lessor. Such improvements shall be made at the sole discretion of Lessee.

I.

Lessor or Lessee reserves the right to cancel and terminate this lease at any time during the term hereof provided a one (1) year notice is given to the other party.

II.

Lessee does further agree to pay all utility charges, if any, as may be charged to the Lessee because of the Lessee's operation of facilities upon the above-described premises, except for any charges for water and sewer which will be paid for by Lessor.

III.

It is further agreed between the Lessor and Lessee that all buildings and improvements thereto located on the above-described premises may not be removed from said premises upon termination of this lease agreement, and further provided that upon termination of this lease that Lessee will leave the building and the premises in a clean, neat, and orderly condition.

IV.

Lessee further agrees to keep the grounds of the leased premises neat and clean, free of paper and other debris and keep the landscape and grass mowed and trimmed and to keep the sidewalks, alleys, parking lot, or passageways contiguous or appurtenant to said premises in good repair.

V.

Lessee agrees to indemnify and forever hold harmless the Lessor against each and every claim, demand or cause of action that may be made or come against it by reason of or in any way arising out of any defect or imperfection in any of the improvements which Lessee may erect or which have been erected upon the above described premises, or any failure to repair the same, and also against every claim, demand or cause of action the Lessor by reason of any liability that is or may be imposed on it as owner of said premises, under the laws of the state or any other law or federal regulation, or on account of any

defect, imperfection or failure to repair Lessee' s improvements or on account of any act or omission of the Lessee, as tenant and occupier of said premises in or about the same or because of the Lessee' s operation of its business on said premises. Lessee shall obtain liability insurance with the City of Wharton as a Certificate Holder and additional insured. Lessor shall also be notified within 30 days of cancellation.

VI.

The Lessee may not sub-lease said premises for any purposes.

VII.

Such property and buildings shall be used and occupied by the Hased House of Wharton, Inc. for yoga, counseling, teaching and other functions in connection with the promotion of Community Wellness in the Wharton area open to the public, if not so used, this lease shall terminate.

VIII.

In the normal course of business, the Lessee shall be entitled to host public and private events without need for approval from the Lessor. Lessee shall comply with all applicable state and local liquor laws and regulations. Alcohol will not be allowed in Dinosaur Park without prior written approval per City of Wharton Ordinance Chapter 54 – Parks and Recreation, Section 54-12.

IX.

Lessee shall not make any major structural changes or alterations to said building **without first obtaining written permission from the City Manager** of the City of Wharton, Texas.

X.

In the event that the property herein leased shall be destroyed by fire or act of God, the Lessor is under no obligation to rebuild the property and this lease shall terminate upon destruction of the property.

XI.

This lease may be renewed by mutual consent of the parties upon the termination of the original terms of this lease.

XII.

Lessee does further agree to abide by all of the ordinances enacted by the City of Wharton, Texas.

EXECUTED IN DUPLICATE ORIGINALS this 13th day of March 2023.

CITY OF WHARTON, TEXAS

BY: _____
TIM BARKER, Mayor
LESSOR

ATTEST:

PAULA FAVORS
City Secretary

HESED HOUSE OF WHARTON, INC.

BY: _____
LAUREN LATHON, President
LESSEE

DRAFT

**CITY OF WHARTON
RESOLUTION NO. 2023-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF WHARTON AND HESED HOUSE OF WHARTON FOR USE OF THE DICKSON ROWAN HOUSE LOCATED IN DINOSAUR PARK, 421, 421A, 421B, 501 & 505 COLORADO STREET AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, The City of Wharton wishes to approve a lease agreement with Hesed House of Wharton and to enter into said agreement as per the requirements set forth in said agreement (Attachment A.); and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute a lease agreement with Hesed House of Wharton.

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

Section I. That the City Council hereby approves the lease agreement for twenty-five (25) years with one (1) renewal term of ten (10) years in accordance with the lease agreement between the City of Wharton and Hesed House of Wharton.

Section II. That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute the lease agreement with Hesed House of Wharton.

Section III. That the City of Wharton and Hesed House of Wharton are hereby bound by the conditions set forth in the agreement.

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

Passed, Approved, and Adopted this 13th of March 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:


PAULA FAVORS
City Secretary

CITY COUNCIL COMMUNICATION

<p>Meeting Date:</p>	<p>3/13/2023</p>	<p>Agenda Item:</p>	<p>Ordinance: An ordinance declaring the unopposed candidate for Councilmember District No. 3 and Councilmember At Large Place No. 5 as elected to office; providing that the general election held on May 6, 2023, for Councilmember District No. 3 and Councilmember At Large Place No. 5 shall be cancelled; providing that this ordinance shall be cumulative of all ordinances; providing for severability; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith and providing an effective date.</p> <p>Ordenanza: Una ordenanza declarando el candidato sin oposición para Concejal para el Distrito No. 3 y el Concejal de forma irrestricta para la Posición No. 5 según elegido a su puesto; disponiendo que se cancele la Elección General programada para el 6 de mayo 2023, para Concejal para el Distrito No. 3 y el Concejal de forma irrestricta para la Posición No. 5; disponiendo que esta ordenanza sea cumulativa para todas las ordenanzas; disponiendo la divisibilidad; revocando todas las ordenanzas o parte de ellas que sean inconsistentes o en conflicto con la presente y disponiendo una fecha vigente.</p>
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The deadline to file for positions on the City of Wharton Election Ballot was Friday, February 17, 2023, at 5:00 p.m. At that time, Councilmember District No. 1 Clifford Jackson, Councilmember District No. 3 Terry Freese, and Councilmember At Large Place No. 5 Russell Machann had filed to run for their respective positions. The positions of Councilmember District No. 3 and Councilmember At Large Place No. 5 were not contested and there was no write in candidates. Therefore, the Wharton City Council may cancel the City of Wharton General Election that is to be held on May 6, 2023, for Councilmember District No. 3 and Councilmember At Large Place No. 5. Attached are draft copies of the ordinance declaring the unopposed candidate for Councilmember District No. 3 and Councilmember At Large Place No. 5 as elected to office; Providing that the General Election held on May 6, 2023, for Councilmember District No. 3 and Councilmember At Large Place No. 5 in the English and Spanish version.

City Secretary, Paula Favors, will be present to answer any questions.

City Manager: Joseph R. Pace	Date: Thursday, March 9, 2023
Approval: 	
Mayor: Tim Barker	

**CERTIFICATION OF UNOPPOSED CANDIDATES FOR
OTHER POLITICAL SUBDIVISIONS (NOT COUNTY)
CERTIFICACIÓN DE CANDIDATOS ÚNICOS
PARA OTRAS SUBDIVISIONES POLITICAS (NO EL CONDADO)**

To: Presiding Officer of Governing Body
Al: Presidente de la entidad gobernante

As the authority responsible for having the official ballot prepared, I hereby certify that the following candidates are unopposed for election to office for the election scheduled to be held on May 6, 2023.

Como autoridad a cargo de la preparación de la boleta de votación oficial, por la presente certifico que los siguientes candidatos son candidatos únicos para elección para un cargo en la elección que se llevará a cabo el 6 de mayo de 2023.

List offices and names of candidates:
Lista de cargos y nombres de los candidatos:

Office(s) Cargo(s)	Candidate(s) Candidato(s)
Councilmember District No. 3	Terry Freese
Councilmember At-Large Place No. 5	Russell Machann

Signature (Firma)

Tim Barker

Printed name (Nombre en letra de molde)

Mayor

Title (Puesto)

March 13, 2023

Date of signing (Fecha de firma)

(Seal) (sello)

See reverse side for instructions
(Instrucciones en el reverso)

Instructions for certification of unopposed candidates:

Item-5.

The authority responsible for preparing the ballot must certify the unopposed status to the authority responsible for ordering the election. This document is filed with the presiding officer of the political subdivision. The governing body must meet, accept this certification, and issue an order or ordinance declaring the election cancelled and the unopposed candidates elected. To complete the cancellation process, a copy of the order or ordinance canceling the election must be posted on Election Day at each polling place that would have been used in the election. See sample Order of Cancellation and outlines for additional instructions.

An election* may be cancelled if:

- 1) The election is one in which a declaration of write-in candidacy is required; and
- 2) No opposed at-large race is on the ballot* within that election;*and
- 3) Each candidate whose name is to appear on the ballot* is unopposed, with some exceptions;

This means:

- In an all at-large election* (with no single-member districts), if there is one or more opposed at-large races, then all the races go on the ballot within that election.*
- In an election* in which any members of the governing body are elected from single-member districts, an election in a particular district may be cancelled if the candidate is unopposed and the election otherwise meets the above requirements (i.e., there is no at-large opposed race on the ballot).

Note: A general election (for full terms) or a special election (to fill a vacancy in an unexpired term) is considered a *separate election* with a *separate ballot* for purposes of these tests, even if held on the same election date. See our online Cancellation guide for details.

Instrucciones para la certificación de una elección con candidatos únicos:

La autoridad a cargo de preparar la boleta de votación debe certificar los candidatos únicos sin oposición a la autoridad encargada de ordenar la elección. Este documento se debe presentar al presidente de la subdivisión política. La entidad gobernante debe reunirse, aceptar esta certificación y emitir una orden o una ordenanza en la que declara la cancelación de la elección y la elección de los candidatos únicos sin oposición. Para completar el proceso de cancelación, se debe exhibir el Día de la Elección una copia de la orden u ordenanza de cancelación de la elección en todos los sitios de votación que se hubieran utilizado en la elección. Vea el ejemplo Orden de Cancelación y el resumen para más instrucciones.

Una elección* puede ser cancelada si:

- 1) *la elección es una en la que se requiere una declaración de candidatos por escrito en la boleta de votación; y,*
- 2) *no hay oposición para la carrera por acumulación en la boleta* de votación dentro de esa elección**
y
- 3) *Todos los candidatos cuyos nombres deben aparecer en la boleta* de votación no tienen oposición, con unas excepciones;*

Esto significa:

- *En una elección* por acumulación (sin ningún distrito con miembro único), si se encuentra una o más de una carrera por acumulación con oposición, entonces todas las carreras estarán en la boleta dentro de esa elección*.*
- *En una elección* en la que cualquiera de los miembros de la entidad gobernante se eligen de distritos con un solo miembro, se puede cancelar una elección en un distrito específico si hay oposición para el candidato y la elección cumple con los requisitos que anteceden (ej. no hay oposición para la carrera por acumulación en la boleta).*

Nota: *Una elección general (con términos completos) o una elección especial (para llenar una vacante de un término no vencido) es considerada como una elección distinta con una boleta distinta con los propósitos de estas pruebas, aunque se lleven a cabo en la misma fecha electoral. Vea nuestra guía de cancelación en línea para más detalles.*

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2023-XX**

AN ORDINANCE DECLARING THE UNOPPOSED CANDIDATE FOR COUNCILMEMBER DISTRICT NO. 3, AND COUNCILMEMBER AT LARGE PLACE NO. 5 AS ELECTED TO OFFICE; PROVIDING THAT THE GENERAL ELECTION HELD ON MAY 6, 2023, FOR COUNCILMEMBER DISTRICT NO. 3 AND COUNCILMEMBER AT LARGE PLACE NO. 5 SHALL BE CANCELLED; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Wharton, Texas is a home rule municipality located in Wharton County, created in accordance with the provisions of Title 2 Chapter 9 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and,

WHEREAS, Pursuant to the City of Wharton, Ordinance No. 2023-01-A and 2023-01B, passed and approved January 23, 2023, a general election was ordered to be held on May 6, 2023, for the purpose of electing Councilmember District No. 1, Councilmember District No. 3, and Councilmember At Large Place No. 5 to serve on the City of Wharton City Council; and,

WHEREAS, Pursuant to Section 143.007 Texas Election Code, the deadline for filing for a place on the City’s General Election was expired on February 17, 2023, at 5:00 P.M.; and,

WHEREAS, The City Secretary, in accordance with Section 2.052 Texas Election Code, has certified to the City Council in writing that Terry Freese is unopposed for election to the office of Councilmember District No. 3 and Russell Machann is unopposed for election to the office of Councilmember At Large Place No. 5; and,

WHEREAS, The City Council hereby finds and determines that the candidate for Councilmember District No. 3 and Councilmember At Large Place No. 5 whose name is to appear on the ballot in said election is unopposed, and there are no declared write-ins.

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

SECTION 1.

In accordance with Section 2.053(a) Texas Election Code, the following candidate, who is unopposed in the May 6, 2023, general election, is hereby declared duly elected to the respective offices.

- Councilmember – District No. 3 – Terry Freese
- Councilmember at Large - Place No. 5 – Russell Machann

SECTION 2.

Pursuant to Section 2.053 (b) Texas Election Code, the General Election for, Councilmember District No. 3 and Councilmember At Large Place No. 5 heretofore called and

ordered by the City of Wharton by Ordinance No. 2023-01A and 2023-01B, for the 6th day of May 2023, shall not be held and is hereby canceled.

SECTION 3.

The City Secretary is hereby directed to post a copy of this Ordinance at the designated polling place on Election Day, same being May 6, 2023.

SECTION 4.

This ordinance shall be cumulative of all provisions of ordinances of the City of Wharton, Texas, except where the provisions or this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5.

It is hereby declared to the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6.

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on this **13th day of March 2023.**

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS:

PAUL WEBB
City Attorney

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


CITY COUNCIL COMMUNICATION

Meeting Date:	3/13/2023	Agenda Item:	Resolution: A resolution of the Wharton City Council approving the termination of the current land lease agreement between the City of Wharton and Mr. Manuel Cabrera and Mr. Sergio Cabrera and authorizing the Mayor of the City of Wharton to execute all documents relating to said termination.
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Attached is a copy of the termination to land lease agreement between the City of Wharton and Mr. Manuel Cabrera and Mr. Sergio Cabrera. The City of Wharton has leased the property on which Los Cucos Mexican Restaurant stood since July 10, 1972 but not the building itself. Due to the recent fire destroying the restaurant, the City wishes to terminate the land lease agreement with the Cabrera's and give a 90-day notice. The termination of the agreement would require the tenant to vacate the premises and remove all of the buildings, equipment and etc., owned by the tenant.

City Attorney, Paul Webb, reviewed the attached agreement which met his approval.

City Secretary, Paula Favors, will be present to answer any questions.

City Manager: Joseph R. Pace	Date: Thursday, March 9, 2023
Approval: 	
Mayor: Tim Barker	

THE STATE OF TEXAS *
COUNTY OF WHARTON * KNOW ALL MEN BY THESE PRESENTS:
*

TERMINATION TO LAND LEASE AGREEMENT

This Land Lease Termination made this the _____ day of _____, 2023, by and between the CITY OF WHARTON, TEXAS, a municipal corporation, hereinafter referred to as Landlord, and MANUEL CABRERA AND SERGIO CABRERA, hereinafter referred to as Tenant.

WITNESSETH:

This termination is for the land lease agreement entered into between Landlord and Tenant on July 10, 1972 on the property attached hereto as Exhibit "A". This lease having been extended multiple times will be terminated upon execution of this document; or if not a mutual agreement, ninety (90) days before the end of the lease. As per the terms of the extension to land lease agreement of March 16, 2018, this lease shall be terminated upon mutual agreement of both parties and all of the terms and conditions of the original agreement including the prior amendments are hereby terminated.

Tenant, also, agrees that it shall upon termination of this lease that upon vacating the premises, Tenant shall be responsible for the removal of the buildings, equipment, etc. owned by Tenant.

EXECUTED IN DUPLICATE ORIGINALS this the _____ day of _____, 2023.

TENANT:

MANUEL CABRERA

SERGIO CABRERA

LANDLORD:

CITY OF WHARTON

BY: _____
TIM BARKER, MAYOR

ATTEST:

ATTEST:

BRANDI JIMENEZ

PAULA FAVORS, City Secretary

STATE OF TEXAS §

COUNTY OF WHARTON §

This instrument was acknowledged before me on the _____ day of _____, 2023
by MANUEL CABRERA AND SERGIO CABRERA.

Notary Public, State of Texas

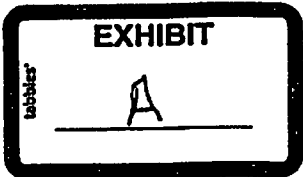
STATE OF TEXAS §

COUNTY OF WHARTON §

This instrument was acknowledged before me on the _____ day of _____, 2023
by TIM BARKER, MAYOR OF THE CITY OF WHARTON, on behalf of said municipal
corporation.

Notary Public, State of Texas

All that certain portion of KINCHELOE COMMONS in the City of Wharton, Wharton County, Texas, as is situated upon the banks of the Colorado River in the City of Wharton, Texas, and which is situated between the West line of Fulton Street and the West line of U.S. Highway 59 Right-of-Way and the South line of Elm Street.



**CITY OF WHARTON
RESOLUTION NO. 2023 -XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE TERMINATION OF THE CURRENT LAND LEASE AGREEMENT BETWEEN THE CITY OF WHARTON AND MR. MANUEL CABRERA AND MR. SERGIO CABRERA AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID TERMINATION.

WHEREAS, The City of Wharton wishes to authorize the Mayor of the City of Wharton to terminate the land lease agreement between Mr. Manuel Cabrera and Mr. Sergio Cabrera and the City of Wharton; and,

WHEREAS, The City of Wharton with said termination of the land lease agreement wishes to give a 90-day notice to Mr. Manuel Cabrera and Mr. Sergio Cabrera; and,

WHEREAS, The Wharton City Council wishes this resolution to become effective immediately upon its passage.

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

Section I. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to terminate, on behalf of the City of Wharton, the land lease agreement with Mr. Manuel Cabrera and Mr. Sergio Cabrera.

Section II. That the City of Wharton wishes to give a 90-day notice of termination of the land lease agreement.

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

Passed, Approved, and Adopted this 13th day of March 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

CITY COUNCIL COMMUNICATION

Meeting Date:	3/13/2023	Agenda Item:	Appointments, Resignations and Vacancies to the City of Wharton Boards, Commissions and Committees: A. Appointments. B. Resignations. C. Vacancies.
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Attached you will find the list of persons serving on the various City Boards, Commissions and Committees. There are still vacancies that also need to be filled.

Appointments: None.

Resignations: None.

Vacancies:

1. Building Standards Commission.
2. Mayor’s Committee on People with Disabilities.
3. Plumbing and Mechanical Board.

City Manager: Joseph R. Pace	Date: Thursday, March 9, 2023
Approval: 	
Mayor: Tim Barker	

**CITY OF WHARTON
BOARDS, COMMISSIONS AND COMMITTEES**

WHARTON REGIONAL AIRPORT BOARD	TWO YEAR TERM	Reappointment
Jimmy Gardner	June 30, 2023	
Randy Rodriguez	June 30, 2023	
Bill Kingrey	June 30, 2023	
Larry David	June 30, 2024	
Jimmy Zissa	June 30, 2024	
Glenn Erdelt	June 30, 2024	

BEAUTIFICATION COMMISSION	TWO YEAR TERM	Reappointment
Nancy Mata	June 30, 2024	
Lucy Cruz Alanis	June 30, 2024	
Rachel Roberson	June 30, 2024	
Barbie Fortenberry	June 30, 2023	
Adraylle Watson	June 30, 2023	
Debbie Folks	June 30, 2023	
Sheryl Joost	June 30, 2023	

BUILDING STANDARDS COMMISSION	TWO YEAR TERM	Reappointment
Leonard Morales	June 30, 2023	
Burnell Neal	June 30, 2023	
Vacant	June 30, 2023	
Paul Shannon	June 30, 2023	
Vacant	June 30, 2024	
Howard Singleton	June 30, 2024	
Shaun Stockwell	June 30, 2024	
Claudia Velasquez, Building Official - ExOfficio		
Jeff Gubbels - Health Officer-ExOfficio		
Hector Hernandez-Fire Marshall-ExOfficio		

ELECTRICAL BOARD	TWO YEAR TERM	Reappointment
Councilmember Clifford Jackson	June 30, 2023	
Zac Henson	June 30, 2023	
Philip Hamlin	June 30, 2024	
Milton Barbee	June 30, 2024	
Hector Hernandez- Fire Marshal		

HOLIDAY LIGHT DECORATING CHAIRMAN	TWO YEAR TERM	Reappointment
Tim Barker	June 30, 2024	

MAYOR'S COMMITTEE ON PEOPLE WITH DISABILITIES	TWO YEAR TERM	Reappointment
Johnnie Gonzalez	June 30, 2024	

Faye Evans	June 30, 2024	
Vacant	June 30, 2024	
Adraylle Watson	June 30, 2023	
Marilyn Sebesta	June 30, 2023	
Sandy Wilkins	June 30, 2023	
Cheryl Lavergne	June 30, 2023	
Mayor Tim Barker- Ex Officio		
HEALTH OFFICER	TWO YEAR TERM	Reappointment
Dr. Jeff Gubbels, MD	June 30, 2024	
VETERINARIAN	TWO YEAR TERM	Reappointment
Dr. Cody Pohler, DVM	June 30, 2024	
MUNICIPAL COURT JUDGE	TWO YEAR TERM	Reappointment
Jared Cullar	June 30, 2023	
PLANNING COMMISSION	TWO YEAR TERM	Reappointment
Burnell Neal	June 30, 2023	
Rob Kolacny	June 30, 2023	
Michael Quinn	June 30, 2023	
Marshall Francis	June 30, 2024	
Adraylle Watson	June 30, 2024	
Michael Wootton	June 30, 2024	
Joel Williams	June 30, 2024	
PLUMBING AND MECHANICAL BOARD	TWO YEAR TERM	Reappointment
A. J. Rath	June 30, 2024	
Tom Faust	June 30, 2023	
Vacant	June 30, 2024	
Robert Sanchez	June 30, 2023	
Vacant	June 30, 2024	
Claudia Velasquez, Building Official - ExOfficio		
Public Works Director Anthony Arcidiacono- Ex Officio		
Mayor Tim Barker - Ex Officio		
WHARTON ECONOMIC DEVELOPMENT CORPORATION	TWO YEAR TERM	Reappointment
Michael Wootton	September 30, 2024	
Alice Heard Roberts	September 30, 2024	
Freddie Pekar	September 30, 2024	
Clifford Jackson (Councilmember)	September 30, 2024	
Russell Machann- (Councilmember)	September 30, 2023	
Andrew Armour	September 30, 2023	
Michael Roberson	September 30, 2023	

CITY COUNCIL COMMITTEES - Renew June 30th of Each Year

ANNEXATION COMMITTEE

Tim Barker
 Russell Machann
 Don Mueller

FINANCE COMMITTEE

Russell Machann
 Larry Pittman
 Tim Barker

HOUSING COMMITTEE

Terry Freese
 Russell Machann
 Clifford Jackson

INTERGOVERNMENTAL RELATIONS COMMITTEE

Terry Freese
 Tim Barker
 Larry Pittman

LEGISLATIVE COMMITTEE

Tim Barker
 Larry Pittman
 Steven Schneider

PUBLIC HEALTH COMMITTEE

Terry Freese
 Larry Pittman
 Russell Machann

PUBLIC SAFETY COMMITTEE

Larry Pittman
 Terry Freese
 Don Mueller

PUBLIC WORKS COMMITTEE

Terry Freese
 Don Mueller
 Clifford Jackson

TELECOMMUNICATIONS COMMITTEE

Clifford Jackson
 Terry Freese
 Don Mueller

WHARTON ECONOMIC DEVELOPMENT CORP BOARD OF DIRECTORS SELECTION COMMITTEE

Tim Barker
 Steven Schneider
 Clifford Jackson

ECONOMIC DEVELOPMENT COMMITTEE


Tim Barker
 Clifford Jackson
 Russell Machann

PARKS AND RECREATION COMMITTEE

Steven Schneider
 Russell Machann
 Terry Freese

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

CITY COUNCIL COMMUNICATION

Meeting Date:	3/13/2023	Agenda Item:	City Council Boards, Commissions and Committee Reports: A. Parks and Recreation Committee meeting held February 27, 2023. B. Finance Committee meeting held February 27, 2023.
Attached you will find the reports from the above-mentioned Committees.			
City Manager: Joseph R. Pace		Date: Thursday, March 9, 2023	
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney Street ° Wharton, TX
77488

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

MEMORANDUM

Date: February 28, 2023

From: City Council Finance Committee

To: Mayor & City Council

Subject: Report/Recommendations from the meeting held February 27, 2023

At the February 27, 2023, City Council Finance Committee Meeting, the Committee met and discussed the following items:

1. Review & Consider: Minutes from the meeting held December 12, 2022.
2. Review & Consider: Ordinance: An ordinance approving an Amendment to the City of Wharton, Texas, Budget for the 2021-2022 Fiscal Year. The Committee voted to recommend this item to the City Council for consideration.
3. Review & Consider: Resolution: A resolution of the Wharton City Council authorizing the purchase of an air conditioning unit for the O'Quinn Room of the Wharton Civic Center and authorizing the City Manager of the City of Wharton to execute all documents related to said purchase. The Committee voted to recommend this item to the City Council for consideration.

Adjournment.



City of Wharton

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MEMORANDUM

Date: February 28, 2023

From: City Council Parks and Recreation Committee

To: Mayor & City Council

Subject: Report/Recommendations from the meeting held February 27, 2023

At the February 27, 2023, City Council Parks and Recreation Committee Meeting, the Committee met discussed the following items:

1. Review & Consider: Minutes from the meeting held May 9, 2022.
2. Review & Consider: Resolution: A resolution of the Wharton City Council accepting the Bay Area Council on Drugs & Alcohol (BACODA) Grant Agreement awarding \$61,700.13 towards installation of equipment and fencing for a dog park. The Committee voted to recommend this item to the City Council for consideration.
3. Review & Consider: Resolution: A resolution of the Wharton City Council awarding a contract for the installation of fencing and equipment for the Dog Park and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. No action was taken.

Adjournment.