

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
NOVEMBER 10, 2003**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:01 P.M. led the opening devotion and then Mayor Bryce D. Kocian led the pledge of allegiance.

Councilmembers present were: Mayor Bryce D. Kocian , Councilmembers V. L. Wiley, Jr., Darryl Darnell, Ken Freese, Don Mueller, and Ray Linseisen.

Councilmember absent was: Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, Deputy City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Police Chief Tim Guin, Building Inspector Ronnie Bollom, Community Services Director Jo Knezek, Fire Chief David Copeland, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Saim Eriskin, Lewis Fortenberry, Carlos Cotton, David Schroeder, Carol Miller, Anthony Rachunek, Johnnie Lee Roberts, Kathe Warren, Chester Houston, David Samelson, Zach Freese, Terry Freese, Dick Hudgins, John Konvicka, Billie Jones, Richard Arnold, Cameron Losoyce, Pam Carfer, Barbara Ray, Teryn Perkins, Vickie Perkins, Sarah Gubbels, Amanda Heffner, Paige Mata, Nick Lanza, Joyce Jackson, Joey Jackson, Billy Goodrich, Andy Goodrich, William Locke, Addie Garza, Adam Garza, Suzette Young, Janice Harris, and Larry Sitka.

The seconded item on the agenda was Roll Call and Excused Absences. After some discussion, Councilmember Don Mueller made a motion to excuse the absence of Councilmember Domingo Montalvo, Jr. from the November 10, 2003 Regular City Council Meeting. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Mr. Saim Eriskin addressed the City Council and stated that he felt that the severance package for City Manager Andres Garza, Jr. was a bad policy. He then questioned how a city employee could approve her own pay increase. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember Ken Freese stated that the Wharton Tiger Varsity Football Team would be playing on Friday, November 14, 2003 in

Victoria for By-District Playoffs against Cuero Dobbler. Councilmember V. L. Wiley, Jr. stated sent his get-well wishes to Reverend Brinkley who had belonged to the community of Wharton and has done an outstanding job. Councilmember V. L. Wiley, Jr. stated that he attended the Houston-Galveston Home Rule Cities Caucus on November 6, 2003 in Houston, Texas. Councilmember V. L. Wiley, Jr. then announced that his first grandchild was born. No action was taken.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held October 13, 2003 and October 27, 2003. Councilmember Darryl Darnell requested that the regular City Council meeting October 13, 2003 minutes include Councilmember Domingo Montalvo, Jr. comments. After some discussion, Councilmember Ken Freese made a motion to amend Item 9 the minutes from the regular meeting October 27, 2003 correcting the grant amount from \$3,500,000,000 to \$3,500,000. Councilmember Ray Linseisen seconded the motion. All voted in favor. City Manager Andres Garza, Jr. stated that the October 13, 2003 minutes would be brought back at a later date for their approval.

The sixth item on the agenda was to review and consider the Southern Pacific Railroad Depot Restoration Project:

A. **Resolution:** A resolution of the Wharton City Council approving the Lease Agreement with the Texas-Mexican Railway Company for the Southern Pacific Railroad Depot located at 100 North Sunset Street, Wharton, Texas; and Authorizing the Mayor of the City of Wharton to execute all documents related to said lease. City Manager Andres Garza, Jr. informed the City Council that during the August 25, 2003 regular City Council meeting, the City Council authorized the City Staff to pursue the long-term lease option with the provision that the project would need City Council authorization to proceed. He said that on October 28, 2003 the City received the executed lease from Mr. Arturo Dominguez of the Texas Mexican Railway Company. He stated that the City Staff would continue to try to acquire the property through donation. He then presented a copy of the letter dated November 3, 2003 from City Attorney Paul Webb who had reviewed the agreement. He also presented a copy of the letter dated November 3, 2003 from Mr. Billy J. Goodrich, Jr., P.E., TxDOT Yoakum District Supervisor, Design Engineer approving the agreement with minor amendments. Mr. Garza also presented a draft resolution approving the Lease Agreement with the Texas-Mexican Railway Company for the Southern Pacific Railroad Depot located at 100 North Sunset Street, Wharton, Texas; and Authorizing the Mayor of the City of Wharton to execute all documents related to the lease. Mr. Garza stated that City Council authorization was needed for filing purposes. Dr. Merrell Barfield, Jr. addressed the City Council and publicly commended Billy Goodrich with the Texas Department of Transportation, William Loocke, Building Official Ronnie Bollom, Dick Hudgins, Public Works Director Phillip Bush, David Bucek, Billie Jones, Phil Stephenson, the Gulf Coast Medical Foundation, Great American Train Foundation, Senator Graham, Senator Kay Bailey Hutchins, Vastene Oliver with Colorado Valley Transit, and Dawson Elementary Students. He stated that each individual made a major contribution towards the project. Vastene Oliver with Colorado Valley Transit addressed the City Council and stated that Colorado Valley Transit looked forward to having the Railroad Depot as an asset to the community. Mr. Bucek addressed the City Council and stated that the building had great merit and the Railroad Depot would be a great asset to the

community. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2003-96, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 96**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE LEASE AGREEMENT WITH THE TEXAS-MEXICAN RAILWAY COMPANY FOR THE SOUTHERN PACIFIC RAILROAD DEPOT LOCATED AT 100 NORTH SUNSET STREET, WHARTON, TEXAS; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID LEASE.

WHEREAS, the Wharton City Council wishes to approve the lease agreement with the Texas-Mexican Railway Company for the Southern Pacific Railroad Depot located at 100 North Sunset Street, Wharton, Texas; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to said lease; and

WHEREAS, the City of Wharton and the Texas-Mexican Railway Company wishes to be bound by the conditions as set forth in the lease agreement.

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

Section I. That the City Council of the City of Wharton hereby approves the lease agreement with the Texas-Mexican Railway Company for the Southern Pacific Railroad Depot located at 100 North Sunset Street, Wharton, Texas.

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said lease.

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

Passed, Approved, and Adopted this 10th day of November 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

Councilmember Ken Freese seconded the motion. All voted in favor. The Dawson Elementary Students witnessed Mayor Bryce D. Kocian signing the lease agreement between the City of Wharton and the Texas-Mexican Railway Company.

- B. City Council authorization to proceed with the Southern Pacific Railroad Depot Restoration Project. City Manager Andres Garza, Jr. stated that the City Staff was requesting City Council authorization to proceed with the depot restoration project. Finance Director Joyce Vasut presented a Summary of Local Funding, and stated that the 20% local match was \$224,799 of which \$115,000 had been collected. Therefore, the outstanding funds needed were at \$109,000. She stated if the building was donated to the City of Wharton prior to completion of the project, the \$60,000 for building valuation could be used towards the \$109,000. After some discussion, Councilmember Ken Freese made a motion to authorize the City Staff to proceed with the Southern Pacific Railroad Depot Restoration Project. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances Chapter 82, Traffic, Article IV. Parking, Section 82-133. Same – Designated Hours; That a violation of the Ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; Providing for separability; and setting an effective date. City Manager Andres Garza, Jr. stated that during the regular October 27, 2003 City Council meeting, the City Council authorized the City Staff to draft an ordinance that would assist Dawson Elementary School with a drop off and pick up zone for the students. He then presented a copy of a draft ordinance amending Chapter 82, Article IV Parking, Section 82-133. He stated that Item 2 of the ordinance stated that there would be no parking on both sides of the street. He said that Police Chief Tim Guin had met with Mr. Galen Privitt, Principal of Dawson Elementary, who indicated that the proposed amendment would be acceptable with the school. Police Chief Tim Guin informed the City Council that he and Mr. Galen Privitt discussed extending the white line, which delineated a drop-off lane on Martin Luther King Blvd. Councilmember Darryl Darnell asked if the school would be sending letters home to the parents informing them of the new Ordinance. Police Chief Guin stated that Mr. Privitt informed him that letters would be sent along with a message on parent link. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2003-12, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2003 – 12**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES CHAPTER 82 TRAFFIC, ARTICLE IV. PARKING, SECTION 82-133. SAME— DESIGNATED HOURS; THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY; AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that

Chapter 82 Traffic, Article IV Parking is amended to read as follows:

Sec. 82-133. Same--Designated hours.

The following no parking zones are established in the city during the designated times:

- (1) From 7:30 a.m. to 4:00 p.m.:
Alabama Road, both sides from FM 1301 to Stadium Street and along the west side of Alabama Road from Stadium Street to Ahldag Avenue.
Lazy Lane, both sides, from a distance of 325 feet in a easterly direction of its intersection with North Rusk Street.
Pioneer Avenue, both sides, from its intersection with FM 1301 to Ahldag Avenue.
- (2) From 7:15 a.m. to 8:15 a.m. and from 3:00 p.m. to 4:00 p.m.:
Martin Luther King Boulevard, both sides, from its intersection with Outlar Street to Camellia Street.
- (3) From 8:00 a.m. to 4:00 p.m.:
Frankie Avenue, one block off Pioneer Avenue.
Helms Street, one block off Pioneer Avenue.
Lennie Avenue, one block off Pioneer Avenue.
University Avenue, one block off Pioneer.
- (4) From 8:00 a.m. to 5:00 p.m.:
Fulton Street, in the 200 block between the south boundary line and the north boundary line of the New Hope Baptist Church property, Monday through Friday, inclusive, of each week, except vehicles of the city fire department and city ambulance service.
- (5) From 9:00 p.m. to 6:00 a.m.:
South Wilkes Street, west side.
- (6) From 6:00 a.m. to 3:00 a.m.:
Branch Street, west side, from its intersection with Hendon Street to the south a distance of 300 feet.
Branch Street, east side, from its intersection with Canton Street to its intersection with Wilson Street.

Penalty and Fines for Violations

- (a) Any person who shall violate any parking provision shall be fined not more than \$30.00 for each violation.

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed 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 be effective on December 1, 2003 at 12:01 a.m.

Passed and Approved by the City Council of the City of Wharton, Texas this 10th day of November 2003.

CITY OF WHARTON

By _____
BRYCE D. KOCIAN
Mayor

ATTEST

JOYCE VASUT
City Secretary

Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances Chapter 26, Emergency Management, Section 26-1, Director; Coordinator; Organization; Funds; Providing for Seperability and setting an Effective Date. City Manager Andres Garza, Jr. stated that on August 11, 2003, the Wharton City Council approved the City of Wharton Ordinance No. 2003-08, which amended the ordinance to state that a deputy emergency management coordinator may also be appointed by the director and that the appointment of an emergency management coordinator and deputy must be confirmed by the City Council. He stated that City Attorney Paul Webb had requested the ordinance be placed on the agenda and the ordinance be amended back to its original state whereby the Emergency Management Director (Mayor) would make the appointment. Mr. Garza then presented a copy of the draft ordinance indicating the proposed changes. City Attorney Paul Webb stated that he was not at the City Council meeting when the City Council adopted the amendment to the Emergency Management Ordinance and recommended the City Council amend the ordinance back to its original state whereby the Emergency Management Director (Mayor) would make the appointment. Councilmember Darryl Darnell stated that he spoke to the Department of Public Safety and was advised that the Home Rule cities could amend the Emergency Management Ordinance. After some discussion, Councilmember Darryl Darnell made a motion to approve Ordinance No. 2003-13, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2003-13**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES
CHAPTER 26, EMERGENCY MANAGEMENT, SECTION 26-1. DIRECTOR;
COORDINATOR; ORGANIZATION; FUNDS; PROVIDING FOR SEPERABILITY
AND SETTING AN EFFECTIVE DATE.**

BE IT ORDAINED by the City Council of the City of Wharton, Texas:

Chapter 26, Emergency Management, Section 26-1. Director, coordinator, organization, funds be amended as follows:

Sec. 26-1. Director; coordinator; organization; funds.

- (a) The mayor shall hold the office of emergency management director of the city in accordance with state law.
- (b) An emergency management coordinator and any deputy emergency management coordinator(s) may be appointed by and serve at the pleasure of the director.
- (c) The director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this chapter. He may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.
- (d) The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as organized volunteer groups. The funds and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.

Separability

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

Effective Date

This Ordinance shall become effective on the 1st day of December 2003 at 12:01 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 10th day of November 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney
Councilmember V. L. Wiley, Jr. 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 authorizing the submission of an application to the State of Texas Division of Emergency Management for the Hazard Mitigation Grant Program (HMGP) DR-1479 – Buy-Out Project; and authorizing the Mayor of the City of Wharton to act as the City’s authorized representative in all matters pertaining to the City’s participation in the Hazard Mitigation Grant Program. City Manager Andres Garza, Jr. presented a draft copy of the resolution to submit an application to the State of Texas Division of Emergency Management for the Hazard Mitigation Grant Program (HMGP) DR-1479 – Buy-Out Program. He stated that on October 13, 2003, the City Council authorized the City Staff to pursue an application to the Division of Emergency Management under the Hazard Mitigation Grant Program. He said the City received nine property owners' requests to participate in the buy-out project. He then presented a list of the property owners and estimated cost of this project. Mr. Garza stated that the City, if funded, would be responsible for 25% of the total cost, but would apply for other state funds to cover the 25%. He stated that the application was due November 15, 2003, and the resolution would need to be approved in order to submit the project. He then stated that the estimated market value was the CAD market value plus 20% totaling \$5,316,247. Mr. Garza stated that the appraisal cost was estimated at \$15,500, general survey costs was estimated at \$10,500, closing costs estimated at \$22,000, environmental survey cost was estimated at \$15,000, demolition costs was estimated at \$508,982, environmental remediation costs was estimated at \$150,000, and administrative costs was estimated at \$75,000; totaling \$6,113,229 with the City's portion of the cost being \$1,528,307. After some discussion, Councilmember Ray Linseisen made a motion to approve the Resolution No. 2003-97, which read as follows:

City of Wharton
Resolution No. 2003 - 97

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE STATE OF TEXAS DIVISION OF EMERGENCY MANAGEMENT FOR THE HAZARD MITIGATION GRANT PROGRAM (HMGP) DR-1479 – BUY-OUT PROJECT; AND AUTHORIZING THE MAYOR OF THE

CITY OF WHARTON TO ACT AS THE CITY'S AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE HAZARD MITIGATION GRANT PROGRAM.

WHEREAS, the State of Texas Department of Emergency Management has issued a notice of the availability of funding for the acquisition of property made uninhabitable by floods, in areas that had a major disaster declaration under DR-1479; and

WHEREAS, the City of Wharton is eligible to apply for this additional funding provided under the Hazard Mitigation Grant Program (HMGP); and,

WHEREAS, the total project amount for the City of Wharton Hazard Mitigation Grant Program Acquisition (Buyout) Program is estimated at \$6,113,229.00; and

WHEREAS, the Wharton City Council wishes to approve the submission of an application to the State of Texas Division of Emergency Management to apply for funding under the Hazard Mitigation Grant Program (HMGP) DR-1479, in the amount of \$4,584,921.00; and

WHEREAS, the Wharton City Council certifies that the City of Wharton is able to meet the financial obligations of at least 25% of the cost share under this program and more if federal funding is limited; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to act as the City's authorized representative in all matters pertaining to the City's participation in the Hazard Mitigation Grant Program.

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

Section I. The Wharton City Council hereby authorizes the submission of an application to the State of Texas Division of Emergency Management to apply for the funding under the Hazard Mitigation Grant Program (HMGP) DR-1479, in the amount of \$4,548,921.00.

Section II. The Wharton City Council certifies that the City of Wharton is able to meet the financial obligations of at least 25% of the cost share under this program and more if federal funding is limited.

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to act as the City's authorized representative in all matters pertaining to the City's participation in the Hazard Mitigation Grant Program.

Section III. This resolution becomes effective immediately after its passage.

Passed, Approved and Adopted this 10th day of November 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

Councilmember Ken Freese seconded the motion. Councilmembers V. L. Wiley, Jr. abstained. Councilmember Darryl Darnell, Ken Freese, Don Mueller, and Ray Linseisen voted for the motion. The motion carried.

The tenth item on the agenda was to review and consider a resolution approving the Affiliation Agreement between the City of Wharton and Wharton County Junior College for Emergency Medical Services; Authorizing the City Manager of the City of Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. presented a copy of the Affiliation Agreement between the City of Wharton and Wharton County Junior College regarding Emergency Medical Services training. He stated that the agreement expired on a yearly basis. He then presented a copy of the memorandum dated November 3, 2003 from EMS Director John Kowalik indicating that the agreement met the EMS requirements. Mr. Garza then presented a copy of his letter dated November 3, 2003 to City Attorney Paul Webb requesting that he review the agreement. He then presented a copy of a draft resolution approving the agreement and authorizing the Mayor of the City of Wharton to execute the agreement. City Attorney Paul Webb informed the City Council that he recommended approval of the agreement. After some discussed, Councilmember Ken Freese made a motion to approve the Resolution No. 2003-98, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 98**

A RESOLUTION APPROVING THE AFFILIATION AGREEMENT BETWEEN THE CITY OF WHARTON AND WHARTON COUNTY JUNIOR COLLEGE FOR EMERGENCY MEDICAL SERVICES; AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, the Wharton City Council wishes to approve the Affiliation Agreement between the City of Wharton and Wharton County Junior College for Emergency Medical Services; and.

WHEREAS, the Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute all documents related to the proposal; and

WHEREAS, the City of Wharton and Wharton County Junior College wishes to be bound by the conditions as set forth in the agreement.

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

Section I. That the City Council of the City of Wharton hereby approves the Affiliation Agreement between the City of Wharton and Wharton County Junior College for Emergency Medical Services.

Section II. That the Wharton City Council hereby authorizes the City Manager of the City of Wharton to execute all documents related to the agreement.

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

Passed, Approved, and Adopted this 10th day of November 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

Councilmember V. L. Wiley, Jr. seconded the motion. Mayor Bryce D. Kocian abstained from discussion and voting. Councilmembers V. L. Wiley, Jr., Darryl Darnell, Ken Freese, Don Mueller, and Ray Linseisen voted for the motion. The motion carried.

The eleventh item on the agenda was to review and consider Wharton Interim Feasibility Study:

A. **Resolution:** A resolution approving the proposed first Amendment to the Agreement between the City of Wharton and the Lower Colorado River Authority; and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement amendment. City Manager Andres Garza, Jr. presented a draft resolution approving the proposed first amendment to the agreement between the City of Wharton and the Lower Colorado River Authority and proposed first amendment. He then presented a copy of his letter dated November 5, 2003 to City Attorney Paul Webb requesting that he review the amendment. He stated that the amendment covered the cost to extend the study on Boughman Slough to its convergence with Peach Creek, which would increase the contract from \$1,030,000 to \$1,110,000 or by \$80,000. He stated that of this \$80,000 increase, \$30,000 was additional cash and \$50,000 would be considered as non-cash work in-kind contributions. The City would be responsible for 50% of the \$30,000. He stated that he had

contacted the Texas Water Development Board regarding the needed funds, which they have indicated that the City would need to submit a formal request for the City's portion. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2003-99, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 99**

A RESOLUTION APPROVING THE PROPOSED FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF WHARTON AND THE LOWER COLORADO RIVER AUTHORITY; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the Wharton City Council wishes to approve the proposed first amendments to the agreement between the City of Wharton and the Lower Colorado River Authority; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the amendment to the agreement; and

WHEREAS, the City of Wharton and the Lower Colorado River Authority wishes to be bound by the conditions as set forth in the agreement.

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

Section I. That the City Council of the City of Wharton hereby approves the First Amendment to the agreement between the City of Wharton and the Lower Colorado River Authority.

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the agreement amendment.

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

Passed, Approved, and Adopted this 10th day of November 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

Councilmember Ray Linseisen seconded the motion. All voted in favor.

- B. City Council authorization to submit a request for additional funding for the Wharton Interim Feasibility Study under the Texas Water Development Board Grant Program. After some discussion, Councilmember Ken Freese made a motion to authorize City Staff to submit a request for additional funding for the Wharton Interim Feasibility Study under the Texas Water Development Board Grant Program. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider City Council authorization to submit an application to Wal-Mart Stores for grant funding. City Manager Andres Garza, Jr. presented a copy of the Wal-Mart Stores application for grant funding. He stated that Wal-Mart had indicated that the grant would be in the amount of \$1,000. The funds would be utilized to assist the Wharton Civic Center in addressing the requirements of the Americans with Disabilities Act. He stated that the City Staff was requesting City Council authorization to submit the application and to authorize the application to be executed by City Manager Andres Garza, Jr. After some discussion, Councilmember Ray Linseisen made a motion to authorize the City Staff to submit an application to Wal-Mart Stores for grant funding. Councilmember Don Mueller seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the City of Wharton Police Department Vehicle Bid:

A. Bid Tabulation.

B. **Resolution:** A resolution awarding the bid for the City of Wharton Police Vehicle Bid. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Police Vehicles Bid Tabulation and a draft resolution awarding the bid. He then presented a copy of the memorandum dated November 7, 2003 from Police Chief Tim Guin recommending the bid be awarded to Don Elliott Ford of East Bernard for the two 2004 four door Sedans Police Package (Rear Wheel Drive Only) and to Don Elliott Autoworld of Wharton for the one Police Package 2004 model four door Sedan (Front Wheel Drive). Police Chief Tim Guin stated that the bid from Vonderau Ford did not meet the bid specifications. He stated that the rear doors specifications allowed for a device that kept the prisoners from opening the door. He stated that the bid submitted from Vonderau did not include this device. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 2003-100, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-100**

A RESOLUTION AWARDING A BID TO DON ELLIOTT FORD, EAST BERNARD FOR TWO 2004 FOUR DOOR SEDANS - POLICE PACKAGE (REAR WHEEL DRIVE) AND TO DON ELLIOTT AUTOWORLD FOR

ONE POLICE PACKAGE 2004 MODEL FOUR DOOR SEDAN (FRONT WHEEL DRIVE); AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, competitive, sealed bids were received on November 6, 2003 for four door Sedans Police Package (Rear Wheel Drive Only) and one Police Package 2004 model four door Sedan (Front Wheel Drive); and

WHEREAS, Don Elliott Ford, East Bernard was deemed to be the best and lowest qualified bidder as per bid specifications for the two 2004 four door Sedans Police Package (Rear Wheel Drive Only) in the amount of \$20,942.36 per unit, totaling \$41,884.72; and

WHEREAS, Don Elliott Autoworld, Wharton was deemed to be the best and lowest qualified bidder as per bid specifications for the one Police Package 2004 model four door Sedan (Front Wheel Drive) in the amount of \$17,059.70; and

WHEREAS, this resolution is passed in accordance with this bid.

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

Section I. That Don Elliott Ford is hereby awarded the bid for the two 2004 four door Sedans Police Package (Rear Wheel Drive Only) in the amount of \$20,942.36 per unit, totaling \$41,884.72 for the City of Wharton in accordance with the bid specifications.

Section II. That Don Elliott Autoworld is hereby awarded the bid for the one Police Package 2004 model four door Sedan (Front Wheel Drive) in the amount of \$17,059.70 for the City of Wharton in accordance with the bid specifications.

Section III. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned contracts.

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

Passed, Approved, and Adopted this 10th day of November 2003.

CITY OF WHARTON, TEXAS

BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The fourteenth item on the agenda was to review and consider a resolution approving the proposal from Insituform Technologies, Inc. for the Wastewater Treatment Plant No. 2, 24” Sewer Line Rehabilitation Project. City Manager Andres Garza, Jr. stated that during the October 13, 2003 regular Wharton City Council meeting, the City Council authorized the City Staff to declare an emergency to conduct repairs to the Wastewater Treatment Plant 2, 24” sewer line, which had begun to cave in. He stated that Mercer Construction Company was authorized to repair the inflow sewer line at a cost of \$39,750.00; Mercer Construction Comany had completed the work. He stated that the City Staff was awaiting the final invoice for the project. He stated that the City Council also authorized the slip-lining of the in-flow sewer line. Mr. Garza stated that Mr. Anthony Rachunek, P.E. was recommending the City Council approve the proposal submitted by Insituform Technologies, Inc. in the amount of \$69,000.00. He then presented a draft resolution accepting the proposal from Insituform and authorizing the Mayor of the City of Wharton to execute the contract. Anthony Rachunek with Anthony Rachunek & Associates addressed the City Council and stated that the proposal was for rehab sewer by CIPP for 24" in diameter for 500 linear feet at the cost of \$69,000.00. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2003-101, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 101**

A RESOLUTION ACCEPTING THE PROPOSAL FROM INSITUFORM TECHNOLOGIES, INC. FOR THE WASTEWATER TREATMENT PLANT NO. 2, 24” SEWER REHABILITATION PROJECT.

WHEREAS, the Wharton City Council wishes to accept the proposal from Insituform Technologies, Inc. for the Wastewater Treatment Plant No. 2, 24” Sewer Rehabilitation Project in the amount of \$69,000.00; and.

WHEREAS, the Wharton City Council declares this contract an emergency expenditure to repairs public facilities; and,

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the proposal; and

WHEREAS, the City of Wharton and Insituform Technologies, Inc. wishes to be bound by the conditions as set forth in the agreement.

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

Section I. That the City Council of the City of Wharton hereby accepts the proposal in the amount of \$69,000.00 from Insituform Technologies, Inc. for the Wastewater Treatment Plant No. 2, 24” Sewer Line Rehabilitation Project.

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

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

Passed, Approved, and Adopted this 10th day of November 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The fifteenth item on the agenda was to review and consider recommendation from the City Council Finance Committee:

A. Resolution: A resolution of the Wharton City Council establishing Guidelines and Criteria for Granting Tax Abatement in a Reinvestment Zone Created in the City of Wharton, Texas. City Manager Andres Garza, Jr. presented a copy of a draft resolution and proposed tax abatement policy for the City of Wharton. He stated that the City must adopt the policy every two years, and the current tax abatement policy was due to expire December 10, 2003. He stated that the Finance Committee was recommending the approval of the current policy with the addition of Item 16, Water Information, in the application, at the request of the Coastal Bend Goundwater Conservation District. City Manager Andres Garza, Jr. stated that tax abatement policy would become effective December 10, 2003. Councilmember Ken Freese stated that the City Council needed to look the amount where the maximum amount could be given. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 2003-102, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 102**

A RESOLUTION OF THE CITY OF WHARTON, TEXAS, ESTABLISHING GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN A REINVESTMENT ZONE CREATED IN THE CITY OF WHARTON, TEXAS.

WHEREAS, Texas law requires an eligible taxing jurisdiction to establish Guidelines and Criteria as to eligibility for tax abatement agreements; and

WHEREAS, heretofore previously, the City Council of the City of Wharton did provide certain rules, regulations, and procedures for tax abatement within the City of Wharton; and

WHEREAS, such adopted guidelines and criteria for granting tax abatement must be re-adopted or adopted, if modified, every two years in order for the City of Wharton to be able to grant tax abatements; and

WHEREAS, over two years have transpired since the adoption or re-adoption of such guidelines and criteria; and

WHEREAS, the City Council of the City of Wharton now finds and determines that it is in the best interest of the economic development of the City of Wharton that certain tax abatement guidelines and criteria now be adopted.

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

Section I: The Guidelines and Criteria for Granting Tax Abatements as herein contained and titled on Attachment "A" we hereby adopt.

Section II: The effective date of these Guidelines and Criteria for Granting Tax Abatements shall be December 10, 2003.

Section III: This resolution shall become effective immediately upon its passage.

Passed, Approved and Adopted this 10th day of November 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN, Mayor

Attest:

JOYCE VASUT, City Secretary

Councilmember Ray Linseisen seconded the motion. Councilmembers V. L. Wiley, Jr., Darryl Darnell, Don Mueller and Ray Linseisen voted for the motion. Councilmember Ken Freese voted against the motion. The motion carried.

B. Ordinance: An ordinance approving amendments to the budget for the City of Wharton, Texas, for Fiscal Year 2002-2003.

City Manager Andres Garza, Jr. presented a draft ordinance approving the amendments to the budget for the City of Wharton, Texas, for Fiscal Year 2002-2003 and a copy of the budget revisions for fiscal year 2002-2003. He stated that the City Council Finance Committee reviewed the budget amendments and was recommending approval. Finance Director presented the amendments to the City Council. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2003-14, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2003-14**

**AN ORDINANCE APPROVING AMENDMENTS TO THE
BUDGET FOR THE CITY OF WHARTON, TEXAS FOR
THE FISCAL YEAR 2002 - 2003.**

WHEREAS, the City Council of the City of Wharton, Texas finds and determines it necessary to revise the 2002-2003 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 amendments to the budget are for municipal purposes.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Wharton, Texas that the 2001-2002 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:

V. L. Wiley, Jr. Councilmember District No. 1	Voted Yes	Donald Mueller Councilmember District No.4	Voted Yes
Ken Freese Councilmember District No. 3	Voted Yes	Ray Linseisen Councilmember at Large Place No. 6	Voted Yes
Domingo Montalvo, Jr. Councilmember At Large Place No. 5	Voted Absent	Darryl Darnell Councilmember District No. 2	Voted Yes
Bryce D. Kocian Voted Yes Mayor			

Separability

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

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas this 10th day of November 2003.

CITY OF WHARTON, TEXAS

By _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

ADMISSION:

JOYCE VASUT
Director of Finance

Councilmember Ray Linseisen seconded the motion. All voted in favor.

C. Approval to Write-off delinquent accounts for Emergency Medical Services and Utilities for Fiscal Year 2002-2003.

City Manager Andres Garza, Jr. informed the City Council that the Finance Committee met November 6, 2003 and was recommending the City Council approve the EMS and Utility write-offs as presented. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to authorize the City Staff approval for the EMS write-offs in the amount of \$192,904.26 and Utility write-offs in the amount of \$11,687.63. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider City of Wharton Construction Projects:

- A.** Caney Creek Outfall Ditch, Pay Request No. 2 – Uticon, Inc. Carlos Cotton with Jones & Carter Engineering addressed the City Council and stated that the project was 90% complete. After some discussion, Councilmember Ray Linseisen made a motion to approve the Caney Creek Outfall Ditch, Pay Request No. 2 – Uticon, Inc. in the amount of \$280,942.38. Councilmember Don Mueller seconded the motion. All voted in favor.
- B.** Milam Pump Station, Pay Request 3 – Uticon, Inc. Carlos Cotton with Jones & Carter Engineering addressed the City Council and stated that the project was awaiting the power to be tested. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the Milam Pump Station, Pay Request 3 – Uticon, Inc. in the amount of \$26,030.28. Councilmember Ken Freese seconded the motion. All voted in favor.
- C.** Elevated Water Storage Tank Painting Project, Sixth and Final Pay Request – N. G. Painting, Inc. City Manager Andres Garza, Jr. informed the City Council that the Sixth and Final Pay Request in the amount of \$4,000 would close out the project. City Attorney Paul Webb stated that all claims were settled. After some discussion, Councilmember Don Mueller made a motion to approve the Elevated Water Storage Tank Painting Project, Sixth and Final Pay Request – N. G. Painting, Inc. in the amount of \$4,000.00. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider Update on the City of Wharton Housing Elevation Project. City Manager Andres Garza, Jr. presented a copy of the memorandum dated November 6, 2003 from Community Services Director Jo Knezek regarding the 1998 Disaster Program, Housing Elevation Project. He stated that he had spoken with Mr. Greg Pekar of the Division of Emergency Management and he indicated he would forward the assurance the City needed for the project. He stated that meanwhile, the City Staff and Mr. Bud Love of Love and Company were preparing the necessary program guidelines to administer the project. He stated that he anticipated those guidelines being placed on the City Council agenda on November 22, 2003 for approval. Mr. Garza stated that the City Staff and Mr. Love had begun the preliminary assessment of each house. He stated that elevation some of the houses would be difficult, while others would be impossible. He stated that the City Staff was conducting an assessment and would identify the houses eligible for elevation. After some discussion, no action was taken.

City of Wharton
Regular City Council Meeting
November 10, 2003

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

- A. Wharton Economic Development Corporation Public Hearing held November 3, 2003.
 - B. Mayor's Local Committee on People with Disabilities meeting held October 23, 2003.
- City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The nineteenth item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The meeting adjourned at 8:20 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary