

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
OCTOBER 25, 2004**

Mayor Pro-Tem Don Mueller declared a Regular Meeting duly open for the transaction of business at 7:00 p.m. Councilmember Domingo Montalvo, Jr. led the opening devotion and then Mayor Pro-Tem Don Mueller led the pledge of allegiance.

Councilmembers present were: Councilmembers V. L. Wiley, Jr, Ken Freese, Don Mueller, Domingo Montalvo, Jr. and Ray Linseisen.

Councilmembers absent were: Mayor Bryce D. Kocian and Councilmember David Samuelson.

Staff members present were: City Manager, Andres Garza, Jr., Finance Director Joyce Vasut, Deputy City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Building Official Ronnie Bollom, Police Chief Tim Guin, EMS Director John Kowalik and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal-Spectator, David Schroeder with WEDCo, Carlos Cotton, Jim Gilley, Jennifer LaGrande, Lewis Fortenberry, Jessica Norrell, Amy Aaronson, Erinn Lindberg, Steven May, Leslie Driscoll, Louis Edward, H. R. Fisher, and Pat Blakely.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was the Wharton Moment. No comments were given. No action was taken.

The fifth item on the agenda was to review and consider the City of Wharton Financial Report for the month of September 2004. Finance Director Joyce Vasut presented the financial report for the month of September 2004 to the City Council and stated that the auditors would be reviewing the year end financials. The total ad valorem taxes collected were \$1,680,137. She said the sales tax for the month of August 2004 was \$142,044 with \$94,696 going to the City and \$47,348 to WEDCo. The TexPool balance for August 2004 was \$324,795.84 with an average monthly yield of 1.5424%. The bank balance was \$1,562,091.92 with an average monthly yield of 2.01%. After some discussion, Councilmember Ray Linseisen made a motion to approve the financial report for the month of September 2004. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixth item discussed on the agenda was to review and consider an ordinance authorizing the issuance of \$1,715,000 City of Wharton, Texas, Tax and Revenue Certificates of Obligation, Series 2004. City Manager Andres Garza, Jr. stated that on October 9, 2004 and October 16, 2004, the City Staff published the Notice of Intent to issue City of Wharton Tax and Revenue Certificates of

Obligation, Series 2004 in the Wharton Journal Spectator. He then presented a copy of the draft ordinance authorizing the actual issuance of the Certificates of Obligation. Mr. Jim Gilley with Coastal Securities addressed the City Council and stated that four bids were received. He stated that the lowest bid was from SAMCO Capital Markets for 3.997614%. He stated that bonds were rated by Moody's underlying of Baa1, with Aaa insured; and by Standard and Poor's underlying of BBB+, with AAA insured. Ms. Jennifer LaGrande with Vinson & Elkins addressed the City Council and stated the executed ordinance would be submitted to the Attorney General and the closing would take effect within 30 days. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2004-22, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2004-22**

**ORDINANCE AUTHORIZING THE ISSUANCE OF \$1,715,000 CITY OF
WHARTON, TEXAS, TAX AND REVENUE CERTIFICATES OF
OBLIGATION, SERIES 2004.**

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

WHEREAS, the City Council of the City of Wharton, Texas (the "City"), authorized the publication of a notice of intention to issue certificates of obligation to the effect that the City Council would meet on October 25, 2004, to adopt an ordinance and take such other action as may be deemed necessary to authorize the issuance of certificates of obligation payable from City ad valorem taxes and from a limited pledge of a subordinate lien of the net revenues of the City's water and sewer system, for the purpose of evidencing the indebtedness of the City for all or any part of the cost of constructing water and sewer system improvements, drainage improvements, including acquisition of right-of-way, and street improvements, and the cost of professional services incurred in connection therewith; and

WHEREAS, such notice was published at the times and in the manner required by the Constitution and laws of the State of Texas, particularly Chapter 271, Texas Local Government Code as amended; and

WHEREAS, no petition or other request has been filed with or presented to any official of the City requesting that any of the proceedings authorizing such certificates of obligation be submitted to a referendum or other election; therefore

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

1. Definitions. Throughout this Ordinance the following terms and expressions as used herein shall have the meanings set forth below:

"Act" means Chapter 271, Texas Local Government Code, as amended.

"Blanket Issuer Letter of Representations" means the Blanket Issuer Letter of Representations between the City, the Registrar and DTC.

"Business Day" means any day which is not a Saturday, Sunday, or a day on the Registrar is authorized by law or executive order to be closed.

"Certificates" or "Series 2004 Certificates" means the Series 2004 Certificates authorized in this Ordinance, unless the context clearly indicates otherwise.

"City" means the City of Wharton, Texas.

"Closing Date" means the date of the initial delivery of and payment for the Certificates.

"Code" means the Internal Revenue Code of 1986, as amended.

"Comptroller" means the Comptroller of Public Accounts of the State of Texas.

"Debt Service Fund" means the debt service fund for payment of the Certificates established by the City in Section 19 of this Ordinance.

"DTC" means The Depository Trust Company of New York, New York, or any successor securities depository.

"DTC Participant" means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"Interest Payment Date", when used in connection with any Certificate, means June 1, 2005, and each December 1 and June 1 thereafter until maturity or earlier redemption.

"Initial Certificate" means the Initial Certificate authorized by Section 5(d).

"MSRB" means the Municipal Securities Rulemaking Board.

"NRMSIR" means each person whom the SEC or its staff has determined to be a nationally recognized municipal securities information repository within the meaning of the Rule from time to time.

"Ordinance" as used herein and in the Certificates means this ordinance authorizing the Certificates.

"Owner" means any person who shall be the registered owner of any outstanding Certificate.

"Record Date" means, for any Interest Payment Date, the close of business on the 15th day of the calendar month next preceding such Interest Payment Date.

"Register" means the books of registration kept by the Registrar, in which are maintained the names and addresses of, and the principal amounts of the Certificates registered to, each Owner.

"Registrar" means Wells Fargo Bank, N.A., and its successors in that capacity.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

"SID" means the Municipal Advisory Council of Texas, which has been designated by the State of Texas as, and determined by the SEC staff to be, a state information depository within the meaning of the Rule.

2. Authorization. The matters and facts stated in the preamble to this Ordinance are hereby found to be true and correct. The Certificates shall be issued, pursuant to the Act, in fully registered form in the aggregate principal amount of One Million Seven Hundred Fifteen Thousand Dollars (\$1,715,000), for the purpose of evidencing the indebtedness of the City for all or any part of the cost of constructing water and sewer system improvements, drainage improvements, including acquisition of right-of-way, and street improvements, and the cost of professional services incurred in connection therewith.

3. Designation, Date, and Interest Payment Dates. The Certificates shall be designated as "CITY OF WHARTON, TEXAS, TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2004" and shall be dated November 1, 2004. The Certificates shall bear interest at the rates set forth in Section 4 of this Ordinance from the later of November 1, 2004, or the most recent Interest Payment Date to which such interest has been paid or duly provided for, calculated on the basis of a 360 day year of twelve 30 day months, interest payable on June 1, 2005, and semiannually thereafter on December 1 and June 1 of each year until maturity or earlier redemption.

4. Initial Certificates; Numbers and Denominations. The Certificates shall be initially issued bearing the numbers, in the principal amounts, and bearing interest at the rates set forth in the following schedule, and may be transferred and exchanged as set out in this Ordinance. The Certificates shall mature on December 1 in each of the years and in the amounts set out in such schedule. The Initial Certificate shall be numbered I-1 and all other Certificates shall be numbered in sequence beginning with R-1. Certificates delivered on transfer of or in exchange for other Certificates shall be numbered in order of their authentication by the Registrar, shall be in the denomination of \$5,000 or integral multiples thereof, and shall mature on the same date and bear interest at the same rate as the Certificate or Certificates in lieu of which they are delivered.

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2006	\$ 30,000	_____%
2007	30,000	_____%
2008	35,000	_____%
2009	40,000	_____%
2010	40,000	_____%

2011	60,000	_____%
2012	60,000	_____%
2013	65,000	_____%
2014	165,000	_____%
2015	180,000	_____%
2016	185,000	_____%
2017	190,000	_____%
2018	200,000	_____%
2019	210,000	_____%
2020	225,000	_____%

5. Execution of Certificates; Seal. (a) The Certificates shall be signed on behalf of the City by the Mayor and countersigned by the City Secretary, by their manual, lithographed, or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) If any officer of the City whose manual or facsimile signature shall appear on the Certificates shall cease to be such officer before the authentication of such Certificates or before the delivery of such Certificates, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Registrar's Authentication Certificate substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Registrar. In lieu of the executed Registrar's Authentication Certificate described above, the Initial Certificate delivered at the Closing Date shall have attached hereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that the Initial Certificate has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) On the Closing Date, the Initial Certificate, being a single certificate representing the entire principal amount of the Certificates, payable in stated installments to the Underwriter or its designee, executed by manual or facsimile signature of the Mayor and City Secretary of the City, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, shall be delivered to the Underwriter or its designee. Upon payment for the Initial Certificate, the Registrar shall cancel the Initial Certificate and deliver Definitive Certificates to DTC.

6. Payment of Principal and Interest. The Registrar is hereby appointed as the paying agent and registrar for the Certificates. The principal of the Certificates shall be payable, without exchange or collection charges, in any coin or currency of the United States of America which on the date of payment is legal tender for the payment of debts due the United States of America, upon their

presentation and surrender as they respectively become due and payable to the Registrar at its principal payment office in Minneapolis, Minnesota. The interest on each Certificate shall be payable on each Interest Payment Date, by check mailed by the Registrar on or before the Interest Payment Date to the Owner of record as of the Record Date, to the address of such Owner as shown on the Register, or by such other method, requested by the Owner, acceptable to the Registrar.

If the date for payment of the principal of or interest on any Certificate is not a Business Day, then the date for such payment shall be the next succeeding Business Day with the same force and effect as if made on the date payment was originally due.

7. Successor Registrars. The City covenants that at all times while any Certificates are outstanding it will provide a commercial bank, trust company, financial institution or other entity duly qualified and legally authorized to serve as and perform the duties and services of Registrar for the Certificates. The City reserves the right to change the Registrar on not less than 60 days written notice to the Registrar, so long as any such notice is effective not less than 60 days prior to the next succeeding principal or interest payment date on the Certificates. Promptly upon the appointment of any successor Registrar, the previous Registrar shall deliver the Register or copies thereof to the new Registrar, and the new Registrar shall notify each Owner, by United States mail, first class postage prepaid, of such change and of the address of the new Registrar. Each Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Section.

8. Special Record Date. If interest on any Certificate is not paid on any Interest Payment Date and continues unpaid for thirty (30) days thereafter, the Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the City. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five (5) days prior to the Special Record Date, to each affected Owner of record as of the close of business on the day prior to the mailing of such notice.

9. Ownership; Unclaimed Principal and Interest. The City, the Registrar and any other person may treat the person in whose name any Certificate is registered as the absolute owner of such Certificate for the purpose of making and receiving payment of the principal of or interest on such Certificate, and for all other purposes, whether or not such Certificate is overdue, and neither the City nor the Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Owner of any Certificate in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Registrar upon such Certificate to the extent of the sums paid.

Amounts held by the Registrar which represent principal of and interest on the Certificates remaining unclaimed by the Owner after the expiration of three years from the date such amounts have become due and payable shall be reported and disposed of by the Registrar in accordance with the applicable provisions of Texas law including, to the extent applicable, Title 6 of the Texas Property Code, as amended.

10. Registration, Transfer, and Exchange. So long as any Certificates remain outstanding, the Registrar shall keep the Register at its principal payment office in Minneapolis, Minnesota, and, subject to such reasonable regulations as it may prescribe, the Registrar shall provide for the registration and transfer of Certificates in accordance with the terms of this Ordinance.

Each Certificate shall be transferable only upon the presentation and surrender thereof at the principal payment office of the Registrar in Minneapolis, Minnesota, duly endorsed for transfer, or accompanied by an assignment duly executed by the registered Owner or his authorized representative in form satisfactory to the Registrar. Upon due presentation of any Certificate in proper form for transfer, the Registrar shall authenticate and deliver in exchange therefor, within three Business Days after such presentation, a new Certificate or Certificates, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity and aggregate principal amount and bearing interest at the same rate as the Certificate or Certificates so presented.

All Certificates shall be exchangeable upon presentation and surrender at the principal payment office of the Registrar in Minneapolis, Minnesota, for a Certificate or Certificates of like maturity and interest rate and in any authorized denomination, in an aggregate amount equal to the unpaid principal amount of the Certificate or Certificates presented for exchange. The Registrar shall be and is hereby authorized to authenticate and deliver exchange Certificates in accordance with the provisions of this Section. Each Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such Certificate is delivered.

The City or the Registrar may require the Owner of any Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Certificate. Any fee or charge of the Registrar for such transfer or exchange shall be paid by the City.

11. Mutilated, Lost, or Stolen Certificates. Upon the presentation and surrender to the Registrar of a mutilated Certificate, the Registrar shall authenticate and deliver in exchange therefor a replacement Certificate of like maturity, interest rate, and principal amount, bearing a number not contemporaneously outstanding. If any Certificate is lost, apparently destroyed, or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Certificate has been acquired by a bona fide purchaser, shall authorize and the Registrar shall authenticate and deliver a replacement Certificate of like maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding.

The City or the Registrar may require the Owner of a mutilated Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Registrar. The City or the Registrar may require the Owner of a lost, apparently destroyed or wrongfully taken Certificate, before any replacement Certificate is issued, to:

- (1) furnish to the City and the Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Certificate;

- (2) furnish such security or indemnity as may be required by the Registrar and the City to save them harmless;
- (3) pay all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Registrar and any tax or other governmental charge that may be imposed; and
- (4) meet any other reasonable requirements of the City and the Registrar.

If, after the delivery of such replacement Certificate, a bona fide purchaser of the original Certificate in lieu of which such replacement Certificate was issued presents for payment such original Certificate, the City and the Registrar shall be entitled to recover such replacement Certificate from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Certificate, authorize the Registrar to pay such Certificate.

Each replacement Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such replacement Certificate is delivered.

12. Cancellation of Certificates. All Certificates paid in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated and delivered in accordance herewith, shall be cancelled and destroyed upon the making of proper records regarding such payment. The Registrar shall furnish the City with appropriate certificates of destruction of such Certificates.

13. Book-Entry System. (a) The Initial Certificate shall be registered in the name of Cede & Co. Except as provided in Section 14 hereof, all other Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such DTC Participant holds an interest in the Certificates, except as provided in this Ordinance. Without limiting the immediately preceding sentence, the City and the Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Certificates, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any amount with respect to principal of, premium, if any, or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Register as the absolute Owner of such Certificate for the purpose of payment of principal of and

interest on the Certificates, for the purpose of giving notices of redemption and other matters with respect to such Certificate, for the purpose of registering transfer with respect to such Certificate, and for all other purposes whatsoever. The Registrar shall pay all principal of, premium, if any, and interest on the Certificates only to or upon the order of the respective Owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payments of principal, premium, if any, and interest on the Certificates to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of this Ordinance with respect to interest checks being mailed to the Owner of record as of the Record Date, the phrase "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

14. Successor Securities Depository; Transfer Outside Book-Entry Only System. In the event that the City, in its sole discretion, determines that the beneficial owners of the Certificates shall be able to obtain certificated Certificates, or in the event DTC discontinues the services described herein, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants, as identified by DTC, of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants, as identified by DTC, of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts, as identified by DTC. In such event, the Certificates shall not longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

15. Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificates are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Certificates, and all notices with respect to such Certificates, shall be made and given, respectively, in the manner provided in the Blanket Letter of Representations.

16. Optional and Mandatory Redemption. The Certificates are subject to optional *and mandatory* redemption as set forth in the Form of Certificate in this Ordinance.

Principal amounts may be redeemed only in integral multiples of \$5,000. If a Certificate subject to redemption is in a denomination larger than \$5,000, a portion of such Certificate may be redeemed, but only in integral multiples of \$5,000. Upon surrender of any Certificate for redemption in part, the Registrar, in accordance with Section 10 hereof, shall authenticate and deliver in exchange therefor a Certificate or Certificates of like maturity, Issuance Date, and interest rate in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered.

Notice of any redemption identifying the Certificates to be redeemed in whole or in part shall be given by the Registrar at least thirty days prior to the date fixed for redemption by sending written notice by first class mail, postage prepaid, to the Owner of each Certificate to be redeemed in whole or in part at the address shown on the Register. Such notices shall state the redemption date, the redemption price, the place at which Certificates are to be surrendered for payment and, if less than all Certificates outstanding of a particular maturity are to be redeemed, the numbers of the Certificates or portions thereof of such maturity to be redeemed. Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice. By the date fixed for redemption, due provision shall be made with the Registrar for payment of the redemption price of the Certificates or portions thereof to be redeemed, plus accrued interest to the date fixed for redemption. When Certificates have been called for redemption in whole or in part and due provision has been made to redeem the same as herein provided, the Certificates or portions thereof so redeemed shall no longer be regarded as outstanding except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners to collect interest which would otherwise accrue after the redemption date on any Certificate or portion thereof called for redemption shall terminate on the date fixed for redemption.

17. Forms. The form of the Certificates, including the form of the Registrar's Authentication Certificate, the form of Assignment, and the form of Registration Certificate of the Comptroller shall be, respectively, substantially as follows, with such additions, deletions and variations as may be necessary or desirable and not prohibited by this Ordinance, including any legend regarding bond insurance if such insurance is obtained by the Underwriter:

(a) Form of Certificate.

UNITED STATES OF AMERICA
STATE OF TEXAS
COUNTY OF WHARTON

REGISTERED
NUMBER

REGISTERED
DENOMINATION

\$ _____

CITY OF WHARTON, TEXAS
TAX AND REVENUE
CERTIFICATE OF OBLIGATION
SERIES 2004

INTEREST RATE:

MATURITY DATE:

December 1, 20__

ISSUE DATE:

November 1, 2004

CUSIP:

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

The City of Wharton, Texas (the "City") promises to pay to the registered owner identified above, or registered assigns, on the maturity date specified above, upon presentation and surrender of this Certificate at Wells Fargo Bank, N.A. (the "Registrar") at its principal payment office in Minneapolis, Minnesota, the principal amount identified above, payable in any coin or currency of the United States of America which on the date of payment is legal tender for the payment of debts due the United States of America, and to pay interest thereon at the rate shown above, calculated on the basis of a 360 day year of twelve 30 day months, from the later of November 1, 2004, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this Certificate is payable by check on June 1 and December 1, beginning on June 1, 2005, mailed to the registered owner of record as of the 15th day of the calendar month next preceding each interest payment date.

THIS CERTIFICATE is one of a duly authorized issue of Certificates of Obligation, aggregating \$1,715,000 (the "Certificates") issued for the purpose of evidencing the indebtedness of the City for all or any part of the cost of constructing water and sewer system improvements, drainage improvements, including acquisition of right-of-way, and street improvements, and the cost of professional services incurred in connection therewith, in accordance with the Constitution and laws of the State of Texas, particularly Chapter 271, Texas Local Government Code, as amended, and pursuant to an ordinance duly adopted by the City Council of the City (the "Ordinance"), which Ordinance is of record in the official minutes of the City Council.

THE CITY RESERVES THE RIGHT, at its option, to redeem Certificates maturing on or after December 1, 2013, prior to their scheduled maturities, in whole or from time to time in part, in integral multiples of \$5,000, on December 1, 2012, or any date thereafter at par plus accrued interest on the principal amounts called for redemption to the date fixed for redemption. Reference is made to the Ordinance for complete details concerning the manner of redeeming the Certificates.

THE CERTIFICATES which mature in the years 20__ and 20__ (the "Term Certificates") are subject to mandatory redemption prior to maturity in the amounts and on the dates set out below, at a price equal to the principal amount to be redeemed plus accrued interest to the redemption date:

TERM CERTIFICATES IN THE YEAR 20

<u>Mandatory Redemption</u>	<u>Principal Amount</u>
December 1, 20__	\$ _____
December 1, 20__ (maturity)	_____

TERM CERTIFICATES IN THE YEAR 20

<u>Mandatory Redemption</u>	<u>Principal Amount</u>
December 1, 20__	\$ _____

December 1, 20__ (maturity) _____

The particular Term Certificates to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before November 1 of the year in which Term Certificates are to be mandatorily redeemed. The principal amount of Term Certificates to be mandatorily redeemed in such year shall be reduced by the principal amount of Term Certificates that have been purchased by the City and cancelled or have been optionally redeemed and which have not been made the basis for a previous reduction.

NOTICE OF ANY REDEMPTION shall be given at least thirty (30) days prior to the date fixed for redemption by first class mail, addressed to the registered owner of each Certificate to be redeemed in whole or in part at the address shown on the books of registration kept by the Registrar. When Certificates or portions thereof have been called for redemption, and due provision has been made to redeem the same, the principal amounts so redeemed shall be payable solely from the funds provided for redemption, and interest which would otherwise accrue on the amounts called for redemption shall terminate on the date fixed for redemption.

THIS CERTIFICATE is transferable only upon presentation and surrender at the principal payment office of the Registrar in Minneapolis, Minnesota, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his authorized representative, subject to the terms and conditions of the Ordinance.

THE CERTIFICATES are exchangeable at the principal payment office of the Registrar in Minneapolis, Minnesota, for Certificates in the principal amount of \$5,000 or any integral multiple thereof, subject to the terms and conditions of the Ordinance.

THIS CERTIFICATE shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Certificate is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Registrar by due execution of the authentication certificate endorsed hereon.

THE REGISTERED OWNER of this Certificate, by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Ordinance.

THE CITY has covenanted in the Ordinance that it will at all times provide a legally qualified registrar for the Certificates and will cause notice of any change of registrar to be mailed to each registered owner.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly issued and delivered; that all acts, conditions and things required or proper to be performed, to exist and to be done precedent to or in the issuance and delivery of this Certificate have been performed, exist and have been done in accordance with law; and that annual ad valorem taxes, within the limits prescribed by law, sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in the City, and have been pledged irrevocably for such payment.

IT IS FURTHER certified, recited and represented that the revenues, in an amount not to exceed \$10,000, to be derived from the operation of the City's water and sewer system, after the payment of all operation and maintenance expenses thereof (the "Net Revenues"), are pledged to the payment of the principal of and interest on the Certificates; provided, however, that such pledge is junior and subordinate in all respects to the pledge of the Net Revenues to the payment of all outstanding obligations of the City and any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates. The City also reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind payable in whole or in part from the Net Revenues of its waterworks and sanitary sewer system, secured by a pledge of the Net Revenues that may be prior and superior in right to, on a parity with, or junior and subordinate to the pledge of the Net Revenues securing the Certificates.

IN WITNESS WHEREOF, this Certificate has been signed with the manual or facsimile signature of the Mayor and countersigned with the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed, or placed in facsimile, on this Certificate.

(AUTHENTICATION
CERTIFICATE)

(SEAL)

CITY OF WHARTON, TEXAS

Don Mueller, Mayor Pro-Tem

Lisa Stavena, City Secretary

(b) Form of Registration Certificate.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this Certificate has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

(c) Form of Registrar's Authentication Certificate.

AUTHENTICATION CERTIFICATE

It is hereby certified that this Certificate has been delivered pursuant to the Ordinance described in the text of this Certificate.

Wells Fargo Bank, N.A.

By _____
Authorized Signature
Date of Authentication _____

(d) Form of Assignment.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns, and transfers unto

(Please print or type name, address, and zip code of Transferee)

(Please insert Social Security or Taxpayer Identification Number of Transferee)
the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer said Certificate on the books kept for registration thereof, with full power of
substitution in the premises.

DATED: _____

Signature Guaranteed: _____

Registered Owner

NOTICE: The signature above must correspond to the name of the registered owner as shown on the face of this Certificate in every particular, without any alteration, enlargement or change whatsoever.

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

(e) The Initial Certificate shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Certificate, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As Shown Below" and the word "CUSIP" deleted;

(ii) in the first paragraph of the Certificate, the words "on the maturity date specified above" and "at the rate shown above" shall be deleted and the following shall be inserted at the end of the first sentence "..., with such principal to be paid in installments on December 1 in each of the years and in the principal amounts identified in the following

schedule and with such installments bearing interest at the per annum rates set forth in the following schedule:

[Information to be inserted from schedule in Section 4]

(iii) the Initial Certificate shall be numbered I-1.

18. CUSIP Numbers; Bond Insurance. CUSIP Numbers may be printed on the Certificates, but errors or omissions in the printing of such numbers shall have no effect on the validity of the Certificates. If bond insurance is obtained by the Underwriter, the Certificates may bear an appropriate legend as provided by the insurer.

19. Debt Service Fund; Tax Levy. There is hereby established a separate fund of the City to be known as the City of Wharton, Texas, Tax and Revenue Certificates of Obligation, Series 2004 Debt Service Fund (the "Debt Service Fund"), which shall be kept separate and apart from all other funds of the City. The proceeds from all taxes levied, assessed and collected for and on account of the Certificates authorized by this Ordinance shall be deposited, as collected, in the Debt Service Fund. While the Certificates or any part of the principal thereof or interest thereon remain outstanding and unpaid, there is hereby levied and there shall be annually assessed and collected in due time, form and manner, and at the same time as other City taxes are assessed, levied and collected, in each year, a continuing direct annual ad valorem tax, within the limits prescribed by law, upon all taxable property in the City, sufficient to pay the current interest on the Certificates as the same becomes due and to provide and maintain a sinking fund of not less than two percent of the principal amount of the Certificates or the amount required to pay each installment of principal of the Certificates as the same matures, whichever is greater, full allowance being made for delinquencies and costs of collection, and said taxes are hereby irrevocably pledged to the payment of the interest on and principal of the Certificates and to no other purpose.

To pay the debt service coming due on the Certificates prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

20. Pledge of Revenues. The revenues, in an amount not to exceed \$10,000, to be derived from the operation of the City's waterworks and sewer system, after the payment of all operation and maintenance expenses thereof (the "Net Revenues"), are hereby pledged to the payment of the principal of and interest on the Certificates as the same come due; provided, however, that such pledge is and shall be junior and subordinate in all respects to the pledge of the Net Revenues to the payment of all outstanding obligations of the City and any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates. The City also reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind payable in whole or in part from the Net Revenues, secured by a pledge of the Net Revenues that may be prior and superior in right to, on a parity with, or junior and subordinate to the pledge of the Net Revenues securing the Certificates.

21. Application of Chapter 1208, Government Code. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of the taxes and revenues granted by the City under Sections 19 and 20 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are outstanding an unpaid such that the pledge of the taxes and revenues granted by the City under Sections 19 and 20 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

22. Further Proceedings. After the Initial Certificate has been executed, it shall be the duty of the Mayor and other appropriate officials and agents of the City to deliver the Initial Certificate and all pertinent records and proceedings to the Attorney General of the State of Texas, for examination and approval. After the Initial Certificate has been approved by the Attorney General, it shall be delivered to the Comptroller for registration. Upon registration of the Initial Certificate, the Comptroller (or the Comptroller's bond clerk or an assistant bond clerk lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate prescribed herein and the seal of said Comptroller shall be impressed, or placed in facsimile, thereon.

23. Sale. The sale and delivery of the Certificates to _____ (the "Underwriter") at a price of par, plus a cash premium of \$ _____, plus accrued interest thereon to date of delivery, is hereby authorized, approved, ratified and confirmed, subject to the approving opinion as to the legality of the Certificates of the Attorney General of the State of Texas, and of Vinson & Elkins L.L.P., bond counsel. It is hereby found and declared that the Certificates were sold at public sale and that the bid of the Underwriter was the best bid received by the City.

24. Federal Income Tax Inclusion.

(a) General Tax Covenant. The City intends that the interest on the Certificates shall be excludable from gross income for purposes of federal income taxation pursuant to sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable Income Tax Regulations (the "Regulations"). The City covenants and agrees not to take any action, or knowingly omit to take any action within its control that, if taken or omitted, respectively, would cause the interest on the Certificates to be includable in gross income, as defined in section 61 of the Code, for federal income tax purposes. In particular, the City covenants and agrees to comply with each requirement of this Section; provided, however, that the City shall not be required to comply with any particular requirement of this Section if the City has received an opinion of nationally recognized bond counsel ("Counsel's Opinion") that such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Certificates or if the City has received a Counsel's Opinion to the effect that compliance with some other requirement set forth in this Section will satisfy the applicable requirements of the Code and Regulations, in which case compliance with such other requirement specified in such Counsel's Opinion shall constitute compliance with the corresponding requirement specified in this Section.

(b) No Private Use or Payment and No Private Loan Financing. The City shall certify, through an authorized officer, employee or agent that based upon all facts and estimates known or

reasonably expected to be in existence on the date the Certificates are delivered, that the proceeds of the Certificates will not be used in a manner that would cause the Certificates to be "private activity bonds" within the meaning of section 141 of the Code and the Regulations promulgated thereunder. Moreover, the City covenants and agrees that it will make such use of the proceeds of the Certificates including interest or other investment income derived from Certificate proceeds, regulate the use of property financed, directly or indirectly, with such proceeds, and take such other and further action as may be required so that the Certificates will not be "private activity bonds" within the meaning of section 141 of the Code and the Regulations promulgated thereunder.

(c) No Federal Guarantee. The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Certificates to be "federally guaranteed" within the meaning of section 149(b) of the Code and the applicable Regulations thereunder, except as permitted by section 149(b)(3) of the Code and such Regulations.

(d) No Hedge Bonds. The City covenants and agrees that it has not and will not take any action, and has not knowingly omitted and will not knowingly omit to take any action, within its control, that, if taken or omitted, respectively, would cause the Certificates to be "hedge bonds" within the meaning of section 149(g) of the Code and the applicable Regulations thereunder.

(e) No Arbitrage. The City shall certify, through an authorized officer, employee or agent that based upon all facts and estimates known or reasonably expected to be in existence on the date the Certificates are delivered, the City will reasonably expect that the proceeds of the Certificates will not be used in a manner that would cause the Certificates to be "arbitrage bonds" within the meaning of section 148(a) of the Code and the applicable Regulations promulgated thereunder. Moreover, the City covenants and agrees that it will make such use of the proceeds of the Certificates including interest or other investment income derived from Certificate proceeds, regulate investments of proceeds of the Certificates, and take such other and further action as may be required so that the Certificates will not be "arbitrage bonds" within the meaning of section 148(a) of the Code and the applicable Regulations promulgated thereunder.

(f) Arbitrage Rebate. If the City does not qualify for an exception to the requirements of section 148(f) of the Code relating to the required rebate to the United States, the City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the "gross proceeds" of the Certificates (within the meaning of section 148(f)(6)(B) of the Code), be rebated to the federal government. Specifically, the City will (i) maintain records regarding the investment of the gross proceeds of the Certificates as may be required to calculate the amount earned on the investment of the gross proceeds of the Certificates separately from records of amounts on deposit in the funds and accounts of the City allocable to other bond issues of the City or moneys which do not represent gross proceeds of any bonds of the City, (ii) calculate at such times as are required by applicable Regulations, the amount earned from the investment of the gross proceeds of the Certificates which is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Certificates or on such other dates as may be permitted under applicable Regulations, all amounts required to be rebated to the federal government. Further, the City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the

Certificates that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm's length and had the yield on the issue not been relevant to either party.

(g) Information Reporting. The City covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Certificates are issued, an information statement concerning the Certificates, all under and in accordance with section 149(e) of the Code and the applicable Regulations promulgated thereunder.

(h) Continuing Obligation. Notwithstanding any other provision of this Ordinance, the City's obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Certificates.

25. Qualified Tax-Exempt Obligations. The City hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of section 265(b) of the Code. In connection therewith, the City represents (a) that the aggregate amount of tax-exempt obligations issued by the City during calendar year 2004, including the Bonds, which have been designated as "qualified tax-exempt obligations" under section 265(b)(3) of the Code does not exceed \$10,000,000, and (b) that the reasonably anticipated amount of tax-exempt obligations which will be issued by the City during calendar year 2004, including the Bonds, will not exceed \$10,000,000. For purposes of this Section, the term "tax-exempt obligation" does not include "private activity bonds" within the meaning of section 141 of the Code, other than "qualified 501(c)(3) bonds" within the meaning of section 145 of the Code. In addition, for purposes of this Section, the City includes all entities which are aggregated with the City under the Code.

26. Use of Proceeds. Proceeds from the sale of the Certificates shall, promptly upon receipt by the City, be applied as follows:

- (a) Accrued interest on the Certificates shall be deposited into the Debt Service Fund.
- (b) The remaining proceeds of the Certificates shall be used for the purposes described in Section 2 of this Ordinance and for paying the costs of issuance of the Certificates. Any proceeds remaining after accomplishing the purposes set out in Section 2 and paying costs of issuance, plus earnings on investments of such proceeds, shall be transferred to the Debt Service Fund.

27. Official Statement. The City ratifies and confirms its prior approval of the form and content of the Preliminary Official Statement prepared in the initial offering and sale of the Certificates and hereby authorizes the preparation of a final Official Statement reflecting the terms of the Underwriter's bid and other relevant information. The use of such Official Statement in the reoffering of the Certificates by the Underwriter is hereby approved and authorized. The proper officials of the City are hereby authorized to execute and deliver a certificate pertaining to such

Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Certificates.

28. Continuing Disclosure Undertaking. The City qualifies for the small issuer exemption from the Rule because the City has less than \$10,000,000 in aggregate amount of outstanding obligations (including the Certificates) and no person is committed by contract or other arrangement with respect to payment of the Certificates.

(a) Financial Information and Operating Data. The City will provide certain financial information and operating data which is customarily prepared by the City and is publicly available to any person upon request made to the City in writing; provided, however, that the City reserves the right at any time to commence making filings of such information with the SID in lieu of providing such information to persons upon request. The information to be updated includes all quantitative financial information and operating data with respect to the City of the general type included in the Official Statement under Tables 1 through 12 and in Appendix B and that is customarily prepared by the City and is publicly available. The City will annually update such information and data that is customarily prepared, and a response to an information request will be the latest update of such information at the time of the response.

The City may provide updated information in full text or may incorporate by reference certain other publicly available documents, as permitted by the Rule. The updated information will include audited financial statements, if the City commissions an audit and it is completed by the required time. If audited financial statements are not available by the required time, the City will provide unaudited financial statements by the required time and audited financial statements when and if such audited financial statements become available.

If the City changes its fiscal year, it will notify each NRMSIR and the SID of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

Information agreed to be provided by the City on request may be obtained by contacting the City at: 120 East Caney Street, Wharton, TX 77488, Attention: Director of Finance, or by calling (979)532-2491.

(b) Material Event Notices. The City shall notify the SID and either each NRMSIR or the MSRB, in a timely manner, of any of the following events with respect to the Certificates, if such event is material within the meaning of the federal securities laws:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions or events affecting the tax-exempt status of the Certificates;

- G. Modifications to rights of holders of the Certificates;
- H. Certificate calls;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Certificates; and
- K. Rating changes.

The City shall notify the SID and either each NRMSIR or the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 28(a) of this Ordinance by the time required by such Section.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Texas law that causes Certificates no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adopt to changed circumstances that arise from a change in legal requirements, change in law, or change in the identity, nature, status or type of operations of the City, but only if (1) the agreement, as amended, would have permitted an underwriter to purchase or sell Certificates in the primary

offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the holders of a majority in aggregate principal amount of the outstanding Certificates consent to such amendment, or (b) a person unaffiliated with the City (such as nationally recognized bond counsel), determines that the amendment will not materially impair the interests of the holders and beneficial owners of the Certificates. If any such amendment is made, the City will include in its next annual update an explanation in narrative form of the reasons for the change and its impact on the type of operating data or financial information being provided.

29. Related Matters. The Mayor, the Director of Finance, the City Secretary and other appropriate officials of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Ordinance.

30. Registrar. The form of agreement setting forth the duties of the Registrar is hereby approved, and the appropriate officials of the City are hereby authorized to execute such agreement for and on behalf of the City.

31. No Personal Liability. No recourse shall be had for payment of the principal of or interest on any Certificates or for any claim based thereon, or on this Ordinance, against any official or employee of the City or any person executing any Certificates.

32. Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by the Texas Open Meetings Act.

PASSED AND APPROVED this 25th day of October, 2004.

Don Mueller
Mayor Pro-Tem
City of Wharton, Texas

ATTEST:

Lisa Stavena
City Secretary
City of Wharton, Texas
(SEAL)

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider Wharton Economic Development Corporation 2003-2004 Annual Report. City Manager Andres Garza, Jr. presented a copy of the email dated October 15, 2004 from Wharton Economic Development Corporation (WEDCo) Executive Director David Schroeder requesting to place the WEDCo 2003-2004 Annual Report on the October 25, 2004 City Council agenda. Mr. Schroeder addressed the City Council regarding the WEDCo's annual report and stated the fiscal year 2003-2004 ended with a balance of \$407,000. He stated in 2003-2004, approximately 300 jobs were added to Wharton. He stated that Wal-Mart utilized a Texas Capital Fund grant in the amount of \$1,000,000. He said WEDCo had

\$400,000 in infrastructure improvements for the Wal-Mart project. He stated that with Holiday Inn Express, the hotel/motel tax would possibly double. He then stated that WEDCo Boardmember Mike Murphy had resigned and a replacement would need to be appointed. After some discussion, no action was taken.

The eighth item on the agenda was a report on the City Council Youth Advisory Commission. City Manager Andres Garza, Jr. stated that the City Council Youth Advisory Commission (YAC) held its first meeting on September 20, 2004 for the 2004-2005 school year. He stated that YAC Chairman Jessica Norrell, Co-Chairman Amy Aaronson, and Secretary Erinn Lindberg would present a report regarding the Commission's goals for the school year. Ms. Jessica Norrell addressed the City Council and stated that the Committee was formed for the 2004-2005 school year and would participate in the following: Adopt-a-Stop Program, Santa Fe Trail Project, City wide Events, and a fundraiser for the Commission. After some discussion, no action was taken.

The ninth item on the agenda was to review and consider the request by Ms. Leslie Driscoll for a side yard setback variance for the construction of a 12' x 16' accessory building at 421 Sunset Drive; Blasingame, Lot 28. City Manager Andres Garza, Jr. presented a copy of the memorandum dated October 20, 2004 from Building Official Ronnie Bollom regarding the request by Ms. Leslie Driscoll for a side yard setback variance for the construction of a 12' x 16' accessory building at 421 Sunset Drive; Blasingame, Lot 28. He then presented a copy of the application for variance request submitted by Ms. Driscoll and copies of photographs taken of the property location. Ms. Leslie Driscoll addressed the City Council and requested a variance for placement of an accessory building in order to remain in line with the existing accessory building on the property. She stated that Traveler's Inn parking lot was adjacent to the proposed site for the accessory building. She stated that the building would be on piers and beams. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Ms. Leslie Driscoll for a side yard setback variance for the construction of a 12' x 16' accessory building at 421 Sunset Drive; Blasingame, Lot 28. Councilmember Ken Freese seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the request by Southwestern Bell Telephone, L.P. for an easement across City of Wharton property for telecommunications facilities. City Manager Andres Garza, Jr. presented a copy of a letter from SBC requesting to place a telecommunications line along the north side of the railroad right-of-way purchased by the City between Richmond Road and Sunset Street. He stated that after discussions with SBC representative Mr. Kevin Stephenson, the City Staff was recommending a five (5) feet private easement be provided along with a five feet temporary construction easement. He stated that the line would be located on the north side of the property from Richmond Road to Sunset Street. He then presented a copy of the survey of the property. He stated that the easement was needed for laying fiber optic lines. City Attorney Paul Webb stated that Mr. Clarence West and himself reviewed the agreement and recommended approval by including a permanent easement. Mayor Pro-Tem Don Mueller asked about the location of the storm sewer drain and requested that the fiber optic lines be placed at the depth of 5 feet that would be below the ditch. City Attorney Paul Webb stated that could be added to the agreement. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Southwestern Bell Telephone, L.P. for a private easement across City of Wharton property for telecommunications facilities, with the fiber optic line be placed at the depth of 5 feet. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the recommendation by the Beautification Commission for City of Wharton assistance with the Hidden Garden Tour. City Manager Andres Garza, Jr. stated that during the October 13, 2004 regular Beautification Commission meeting, the Commission heard a presentation by Ms. Pat Blakely regarding a Hidden Garden Tour. He stated that Ms. Blakely requested the Beautification Commission to assist the Hidden Garden Tour by sponsoring the tours. He stated that the coordinators of the Hidden Garden Tour would be Ms. Pat Blakely, Ms. Melinda Pekar, and Ms. Dana Black. He stated the tour would then be able to solicit funds to promote the Hidden Garden Tour. He stated the Beautification Commission voted to recommend to the City Council that the Hidden Garden Tour be sponsored by the City of Wharton and were requesting the City of Wharton to assist by creating a fund account for the collection of donations and of payment for any expenditures. Ms. Pat Blakely addressed the City Council and stated that the Hidden Garden Tour would allow people to come to certain private homes and tour the gardens. She stated that the project would increase tourism in the City. She was requesting City Council approval and assistance to establish a fund account for the collection of donations and of payments for any expenditures. She stated that WEDCo would contribute \$1,500 to the organization only if it was established as a 501(3) c. She stated that the organization would have approximately \$5,000 in funds for the project. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the recommendation by the Beautification Commission for City of Wharton Assistance with the Hidden Garden Tour. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider a resolution of the City Council of the City of Wharton, Texas, authorizing the submission of a Texas Community Development Program application to the Office of Rural Community Affairs for the Community Development Fund; and authorizing the Mayor to act as the City's Chief Executive officer and authorized representative in all matter pertaining to the City's participation in the Community Development Program. City Manager Andres Garza, Jr. stated that the City Staff was preparing the application for the Office of Rural Community Affairs (ORCA), Texas Community Development Program Community Development Fund for infrastructure improvements to be constructed in the Ahldag Addition. He then presented a copy of the memorandum dated October 18, 2004 from Community Services Director Jo Beth Knezek regarding the application. He stated that Ms. Knezek was requesting City Council approval of the attached draft resolution, which was required to submit the application to ORCA. He stated that the deadline to submit applications was November 5, 2004. He stated that the application would be for \$350,000 of grant funds for sewer system improvements, with the City of Wharton committing to \$70,000 from the Water and Sewer Fund, totaling the project at \$420,000. He stated that the project would address 8,000' to 9,000 ' of sewer line replacement. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-91, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-91**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS,
AUTHORIZING THE SUBMISSION OF A TEXAS COMMUNITY DEVELOPMENT
PROGRAM APPLICATION TO THE OFFICE OF RURAL COMMUNITY AFFAIRS
FOR THE COMMUNITY DEVELOPMENT FUND; AND AUTHORIZING THE
MAYOR TO ACT AS THE CITY'S CHIEF EXECUTIVE OFFICER AND**

AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT PROGRAM.

WHEREAS, the City Council of the City of Wharton desires to develop a viable urban community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low/moderate income; and

WHEREAS, certain conditions exist which represent a threat to the public health and safety; and **WHEREAS**, it is necessary and in the best interests of the City of Wharton to apply for funding under the 2005/2006 Texas Community Development Program;

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

1. That a Texas Community Development Program application for the Community Development Fund is hereby authorized to be filed on behalf of the City with the Office of Rural Community Affairs.
2. That the City's application be placed in consideration for funding under the Community Development Fund.
3. That the application be for \$350,000.00 of grants funds to carry out sewer system improvements.
4. That the City Council directs and designates the Mayor as the City's Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and the City's participation in the Texas Community Development Program.
5. That it further be stated that the City of Wharton is committing \$70,000.00 from its Water and Sewer Fund as a cash contribution toward the construction activities of the sewer system improvements, engineering and general administration.

PASSED, APPROVED AND ADOPTED this 25th day of October 2004.

CITY OF WHARTON

By: _____
DONALD MUELLER
Mayor Pro-Tem

ATTEST:

LISA STAVENA

City Secretary

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council accepting a contract between the Texas Department of Transportation Aviation Division and

the City of Wharton for the 2005 Routine Airport Maintenance Program and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. stated that during the regular May 4, 2004 Wharton Regional Airport Board, the Board Members discussed including the maintenance fees for the AWOS system and the NADIN connection fees for the Wharton Regional Airport to be included in the 2005 Routine Airport Maintenance Program (RAMP). He then presented a copy of the letter dated October 7, 2004 from Ms. Megan Caffall, Grant Manager for the Texas Department of Transportation (TxDOT) Aviation Division regarding the 2005 RAMP program. He also presented a copy of the contract, which included 50% of the cost maintenance fees for the AWOS system and the NADIN connection fees. He stated that the grant would allow up to \$30,000 for fiscal year beginning September 1, 2004 with a 50%/50% match by the City. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-92, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 92**

A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING A CONTRACT BETWEEN THE TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION AND THE CITY OF WHARTON FOR THE 2005 ROUTINE AIRPORT MAINTENANCE PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, the Wharton City Council wishes to enter into a contract between the Texas Department of Transportation – Aviation Division for the 2005 Routine Airport Maintenance Program; and

WHEREAS, the Wharton City Council wishes to include the maintenance fees for the AWOS system and the NADIN connection fees for the Wharton Regional Airport in the 2005 Routine Airport Maintenance Grant Program; and

WHEREAS, the Wharton City Council and the Texas Department of Transportation – Aviation Division wishes to be bound by the terms of the agreement; and

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

WHEREAS, this resolution shall become effective immediately after its passage; and

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 accepts the contract between the Texas Department of Transportation Aviation Division for the 2005 Routine Airport Maintenance Program.

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 25th of October 2004.

CITY OF WHARTON, TEXAS

By: _____

DONALD MUELLER

Mayor Pro-Tem

ATTEST:

LISA STAVENA

City Secretary

Councilmember Ken Freese seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider the City of Wharton Utility Projects:

A. **Resolution:** A resolution of the Wharton City Council accepting a professional engineering services contract between Jones & Carter, Inc., Consulting Engineers and the City of Wharton for the 2004 Waterline Replacement Project and authorizing the Mayor of the City of Wharton to execute all documents related to said contract.

City Manager Andres Garza, Jr. stated that Jones & Carter, Inc. had prepared the plans and specifications to complete the waterline replacement project. He stated that the City Staff was ready to move forward with this project. He then presented a copy of the proposed contract and draft resolution for City Council consideration. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-93, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 93**

A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING A PROFESSIONAL ENGINEERING SERVICES CONTRACT BETWEEN JONES & CARTER, INC., CONSULTING ENGINEERS AND THE CITY OF WHARTON FOR THE 2004 WATERLINE REPLACEMENT PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, the Wharton City Council wishes to enter into a professional engineering services agreement with Jones & Carter, Inc. for the City of Wharton 2004 Waterline Replacement Project; and

WHEREAS, the Wharton City Council and Jones & Carter wishes to be bound by the terms of the agreement; and

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

WHEREAS, this resolution shall become effective immediately after its passage; and

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 accepts the professional engineering services agreement between the City of Wharton and Jones & Carter, Inc., Consulting Engineers for the City of Wharton 2004 Waterline Replacement 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 25th of October 2004.

CITY OF WHARTON, TEXAS

By: _____
DONALD MUELLER
Mayor Pro-Tem

ATTEST:

LISA STAVENA

City Secretary

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

B. Resolution: A resolution of the Wharton City Council accepting a professional engineering services contract between Jones & Carter, Inc., Consulting Engineers and the City of Wharton for the Richmond Road/Fulton Street Sanitary Sewer Rehabilitation Project and authorizing the Mayor of the City of Wharton to execute all documents related to said contract.

City Manager Andres Garza, Jr. stated that Jones & Carter, Inc. had prepared the plans and specifications for the Richmond Road Sanitary Sewer Rehabilitation Project. He stated that the existing sewer line located at Richmond Road to Fulton Street fell approximately 15 feet outside the City's easement. He stated that Jones and Carter, Inc. would be able to complete the plans and specifications to relocate the line inside the City's easement in approximately one month. He stated that the City Staff was ready to move forward with the project. He then presented a copy of the proposed contract and draft resolution for City Council consideration. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-94, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 94**

A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING A PROFESSIONAL ENGINEERING SERVICES CONTRACT BETWEEN JONES & CARTER, INC., CONSULTING ENGINEERS AND THE CITY OF WHARTON FOR THE RICHMOND ROAD / FULTON STREET SANITARY SEWER REHABILITATION PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, the Wharton City Council wishes to enter into a professional engineering services agreement with Jones & Carter, Inc. for the City of Wharton Richmond Road/Fulton Street Sanitary Sewer Rehabilitation Project; and

WHEREAS, the Wharton City Council and Jones & Carter wishes to be bound by the terms of the agreement; and

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

WHEREAS, this resolution shall become effective immediately after its passage; and

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 accepts the professional engineering services agreement between the City of Wharton and Jones & Carter, Inc., Consulting Engineers for the City of Richmond Road/Fulton Street Sanitary Sewer 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 25th of October 2004.

CITY OF WHARTON, TEXAS

By: _____
DONALD MUELLER
Mayor Pro-Tem

ATTEST:

LISA STAVENA

City Secretary

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider City of Wharton Card Access System:

B. Bid Tabulation.

C. **Resolution:** A resolution of the Wharton City Council awarding the bid for the City of Wharton Card Access System; and authorizing the Mayor of the City of Wharton to execute all documents related to the purchase of the access card system.

City Manager Andres Garza, Jr. stated on October 1, 2004, the City Staff received bids for the City of Wharton Card Access System for Municipal Court and Police Station. He then presented a copy of the bid tabulation, and a copy of the memorandum dated October 19, 2004 from Police Chief Tim Guin recommending the City Council consider awarding the bid to Alliance Wireless. He also

presented a draft resolution awarding the bid. He stated that the City Council Finance Committee recommended approval of the award to Alliance Wireless. Police Chief Tim Guin stated that the card access system would be installed at Municipal Court and Police Department with the funds from the Technology Fund and recommended the bid be awarded to Allied Wireless, the lowest and best qualified bidder. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-95, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-95**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING THE BID FOR
THE CITY OF WHARTON CARD ACCESS SYSTEM TO ALLIANCE WIRELESS;
AND AUTHORIZING THE MAYOR THE CITY OF WHARTON TO EXECUTE ALL
DOCUMENTS RELATED TO THE PURCHASE OF THE ACCESS CARD SYSTEM.**

WHEREAS, competitive, sealed bids were received on October 1, 2004 for the purchase of Card Access System for Municipal Court and the Wharton Police Department; and

WHEREAS, Alliance Wireless was deemed to be the lowest and best qualified bidder as per bid specifications for the Card Access System in the amount of \$8,435.50; 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 Alliance Wireless is hereby awarded the bid for the Card Access System for Municipal Court and Wharton Police Station in the amount of \$8,435.50 in accordance with the bid specifications.

Section II. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the purchase of the Card Access System.

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

Passed, Approved, and Adopted this 25th day of October 2004.

CITY OF WHARTON, TEXAS

DONALD MUELLER
Mayor Pro-Tem

ATTEST:

LISA STAVENA
City Secretary

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider the 2004 Annual Texas Municipal League (TML) Conference, October 27-29, 2004, Corpus Christi, Texas. City Manager Andres Garza, Jr. presented information regarding the 2004 Annual Texas Municipal League (TML) Conference to be held October 27 – 29, 2004 in Corpus Christi, Texas, to the City Council. He stated that City Council approval was required for those Councilmembers who wished to attend the conference. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the registration fee of \$295.00 for the 2004 Annual Texas Municipal League (TML) Conference, October 27-29, 2004, Corpus Christi, Texas for the City Councilmembers wishing to attend. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider the Appointments to City Council Committees, Boards, and Commissions:

A. City Council Public Safety Committee.

City Manager Andres Garza, Jr. stated that during the October 11, 2004 regular Wharton City Council meeting, the City Council established the Public Safety Committee. He stated that the resolution establishing the Committee stated that the Committee shall consist of three City Council Members. He stated that the City Council may make appointments to the Committee. After some discussion, Councilmember Ken Freese made a motion to appoint Mayor Bryce D. Kocian, and Councilmembers Domingo Montalvo, Jr. and Ray Linseisen to the City Council Public Safety Committee. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

B. Planning Commission.

C. Building Standards Commission.

City Manager Andres Garza, Jr. stated there was a vacancy on the Planning Commission and the Building Standards Commission. He stated that recommendations to fill the vacancies may be made. After some discussion, no action was taken.

The eighteenth item on the agenda was an Update on the City of Wharton Projects. City Manager Andres Garza, Jr. presented a copy of his memorandum dated October 20, 2004 outlining the progress of the City of Wharton projects, that stated the following:

DRAINAGE:

1. Sanitary Sewer Manhole Survey.

Jones & Carter, Inc. had completed the inspection on approximately 270 manholes that could be located and opened. They were working with the City's personnel to locate and open the remaining manholes, most of which were located in the streets and were paved over. The City's crews have had to remove the asphalt overlay, open them for Jones & Carter's inspection, and then repair the asphalt. The availability of the City's crews to work on this project had been limited due to their many other responsibilities. Jones & Carter, Inc. was working on this survey when the City's crews schedules would allow. It was estimated that it would take at least another month to complete the survey. Work on this project resumed the week of October 18, 2004.

2. Ahldag Ditch Design.

Jones & Carter, Inc. had completed the design calculations and the required right-of-way had been determined. A formal letter to the property owners informing them of the City's interest in acquiring some of their property had been sent. Mr. Dick Hudgins had been engaged to perform the appraisals for the acquisition.

3. Santa Fe Outfall Ditch.

Jones & Carter, Inc. had completed 90% of the preliminary design and cost estimates. A telephone conference was held with the U.S. Army Corps of Engineers concerning the incorporation of the Santa Fe Outfall Ditch project into the federal funded project to help with the flooding issues in the center of Wharton. This added 55 acres of drainage area to the Santa Fe Ditch, which would require some revisions to the preliminary design. Jones & Carter, Inc. was also waiting on Houston Pipeline Company to provide maps of their 24-inch pipeline that would have to be lowered under the proposed ditch.

4. Crestmont / Kelving Way Drainage.

In connection with the Santa Fe Outfall Ditch Project, Jones & Carter, Inc. had completed their analysis of the capacities of the existing storm sewer system and at what points it was overloaded. Currently, Jones & Carter was reviewing the options to re-route some of the runoff to the ditch running from the end of Hodges Street to Caney Creek. A report should be completed in two weeks.

5. Nan Ya Drainage Ditch.

The City Staff was currently working on identifying ownership of the necessary right-of-way. The Staff had requested titles searches for the properties involved and were working on acquiring the necessary right-of-ways.

WATER/SEWER IMPROVEMENTS:

1. Richmond Road Sanitary Sewer Rehabilitation.

The televising of this line indicated severe deterioration of the concrete sewer pipe. Jones & Carter, Inc. had completed the plans and specifications for the rehabilitation of this line by using a cast-in-place liner or, if necessary, by pipe bursting. The plans include the construction of two additional manholes for this line and two point repairs. The City was currently reviewing the plans. Bids should be received by the end of November 2004.

2. Richmond Road to Fulton Sewer Line Replacement.

The existing line falls approximately 15 feet outside the City's easement. The decision had been made to replace this line and relocate it so it would be in the City's easement. The preparation of plans and specs should be authorized this week and completed in approximately one month.

3. Waterline Replacement Project.

Jones & Carter, Inc. had completed the plans and specifications. Bids should be received at the end of November 2004.

4. Stavena Road Sewer/Water line Installation.

The City Crews had completed the sewer line installation. The waterline should be completed by the end of next week. The project had been delayed due to the rain.

STREET IMPROVEMENTS

1. U.S. 59/FM 102 Intersection Upgrade.

Jones & Carter, Inc. had completed 95% of the schematic drawings, which had been submitted to the City for comments. Mr. Carlos Cotton, Phil Bush and myself have met with Mr. Jeff Tsu of J & M Manufacturing to discuss J&M's concern regarding the one-way service road. The City Council Public Works Committee reviewed the plans on September 16, 2004 and recommended the drawings be submitted to the Texas Department of Transportation for their review and comment. The preliminary schematic plans had been submitted to the Texas Department of Transportation for their review and comment. Mr. Carlos Cotton and myself would be attending a meeting with TxDOT to discuss the project. Jones & Carter, Inc. should begin the topo surveys next week.

2. 2004 Street Improvement Project.

Street Rehabilitation had begun on all of the streets approved by the City Council for improvement and had been prepared for lime. The lime had been placed and the City Crews were now setting up and finishing the streets for prime oil. The placing of prime oil had begun. Completion of this project is estimated for mid-October.

WHARTON REGIONAL AIRPORT – RAMP PROGRAM

1. The all-weather road leading to the AWOS system had been completed.
2. The City Staff with the assistance of O'Malley Engineers had found a remedy to install the apron that satisfies Houston Pipeline Company. The lime had been laid for the apron connection and the concrete should be poured by the end of next week.
3. Construction of a security fence had been completed.

HOME PROJECTS

1. 2004 HOME Program.

The City Staff had received notification that the City was approved for this grant which would enable the City to build 7 new low to moderate income homes. The City Staff was waiting on the contracts to be submitted for execution.

2. 2003 HOME Program.

The City Staff was currently accepting applications and should complete the application process. Once this process had been completed, the City Staff would advertise, submit the information to the State for approval. By mid-November, construction of the nine (9) new homes should begin.

3. Unmet Needs DR-1257-TX (1998 Flood) Home Reconstruction Project.

The construction of seven new homes under this grant had been completed. The close-out monitoring visit had been scheduled for September 30, 2004. The homeowners are:

Barbara Ray	1612 West Milam
Frankie Mangum	1607 West Milam
Olivia Harris	221 South Sheppard
Ansalma Ramirez	416 South Sheppard
Alma Curtin	1816 Azalea
Kenneth Harris	1633 Connie
Canterino Rivera	502 S. Ford

4. HOME Elevation Project.

Three bids were received on September 7, 2004 in response to the request for bids that was published in August 2004. The City Staff was currently reviewing the bids. The City was also notified on September 16, 2004 by Ms. Mildred Reno, DEM Mitigation Specialist, that the City received approval to extend the project completion date to August 31, 2005. The City Council awarded the bid to Structural Solutions during the October 11, 2004 City Council meeting and the City Staff was currently preparing the required contract documents for execution by the contractor and homeowner. The City Staff had also met with the remaining ten property owners to determine their interest in continuing with the elevation project since the inclusion of the IRS determination. Two property owners have indicated that they wish to continue in the program.

5. Section 8 Housing.

Section 8 Rental Assistance Voucher Program was through the Texas Department of Housing and Community Affairs Statewide Housing Assistance Payments Program. The State of Texas participates in this and receives their funds from the federally funded program known as HUD or the United States Department of Housing and Urban Development. The City of Wharton currently had 35 families who receive assistance with their rent. This program pays either all or a portion of their rent directly to the landlord from the State. Monthly monitoring inspections were required to ensure the tenants and the landlords adhere to the guidelines of this federal program. We had 15 open vouchers and were currently waiting clearance from the State to award these vouchers to those on the waiting list who qualify.

6. Habitat for Humanity.

A local affiliation of Habitat for Humanity which would be know as "Habitat for Humanity of East Wharton County, Inc." was being formed. It would be incorporated as a 501(c)(3) tax exempt organization that would assist in developing better human habitat for economically disadvantaged

people. The City would be able to work with the organization by identifying and making available surplus City land that can be used for the homes that would be constructed.

OTHER PROJECTS:

1. Police Station Electrical Protection.

A final report had been submitted by Coastal Bend Consultants, Inc. and was currently being reviewed by the City Staff.

2. Animal Control Facility.

The construction of the building had been completed except for some work on the cabinets, doors and restroom facilities. The fence installation had been completed.

3. Tropical Storm Fay – Buy-Out Project:

The City Staff had met with the two property owners. A formal offer letter had been issued to the property owners and the City Staff was awaiting their response. After some discussion, no action was taken.

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

- A. Wharton Regional Airport Board meeting held October 5, 2004.
 - B. Beautification Commission meeting held October 13, 2004.
 - C. Youth Advisory Commission meeting held October 19, 2004.
 - D. Wharton Economic Development Corporation meeting held October 19, 2004.
- City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twentieth item on the agenda was to review and consider the City Manager's Reports:

- | | |
|---|--|
| A. Police Department. | I. Engineer/Planning Department. |
| B. City Secretary/Personnel. | J. Facilities Maintenance Department. |
| C. Municipal Court. | K. Community Services Department/
Civic Center. |
| D. E.M.S. Department. | L. Wharton Municipal Pool. |
| E. Fire Department Incidents/Inspections. | M. Wharton Regional Airport. |
| F. Code Enforcement Department. | N. Legal. |
| G. Water & Sewer Department. | O. Weedy Lots/Sign Ordinance. |
| H. Public Works Department. | |

City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twenty-first item on the agenda was adjournment. After some discussion, Councilmember Ray Linseisen made a motion to adjourn. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The meeting was adjourned at 8:06 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA
City Secretary