

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
MARCH 22, 2010**

Mayor David W. Samuelson declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Mayor David W. Samuelson led the opening devotion and then led the pledge of allegiance.

Councilmember's present was: Mayor David W. Samuelson, Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Terry David Lynch, Don Mueller, Domingo Montalvo, Jr., and Jeff Gubbels.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, City Secretary Lisa Olmeda, Assistant to City Manager Jackie Jansky, Public Works Director Carter Miska, Building Official Ronnie Bollom, Police Chief Tim Guin, Emergency Medical Director John Kowalik, Community Services Director Jo Knezek, and City Attorney Paul Webb.

Visitors present were: Barry Halvorson with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, Steve Van Manen with Harrison, Waldrop & Uherek, LLP, Michael Trigo, Richard Guzman, Jr., Gabriel Guzman, I.O. Coleman, Jr., Elizabeth Masek, Matthew Thornton, Linda Kalmus, Rebehah Samuelson, Rachel Bahnsen, Pryce Bahnsen, Kay Shoppa, Danette Thornton, Cameron Kieler, Vickie Berglund, Troy Berglund, Larry Berglund, Landon Sneed, Ron Chaka, Mason Chaka, Michael Morgan, Charles Morgan, Joey Pennington, Mr. & Mrs. Joseph Pennington, Paige Bahnsen, Tate Lowe, Zach Freese, Adam Garza, Lindle Pennington, Sarah Gubbels, Cameron Kieler, Haley Rainer, Nick Lanza, Magen Lesak, Matthew Zahn, and Roben Eller.

The second item on the agenda was Roll Call and Excused Absences. Mayor and Councilmembers were all present. No action was taken.

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

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The fourth item on the agenda was Wharton Moment. Public Works employee Richard Guzman, Jr. was presented with a plaque honoring his retirement from the City of Wharton with twenty-six years effective March 31, 2010. No action was taken.

The fifth item on the agenda was a proclamation declaring March 23, 2010 as Eagle Scout "Landon Sneed" Day. Mayor David W. Samuelson presented a proclamation declaring March 23, 2010 as Eagle Scout "Landon Sneed" Day in the City of Wharton, which read as follows:

**WHEREAS,** **Boys Scouts of America** has proved itself to be a great force for youth, serving many thousands of people through a wide variety of activities designed to complement and implement the youth programs offered by churches, civic organizations, and public schools; *and*

**WHEREAS,** one of the major objectives in the Scouting programs is to develop citizenship through community involvement; and in addition to working for citizenship merit badges, Scouts are actively involved in community service projects; *and*

**WHEREAS,** **Landon Sneed**, who is a member of the Wharton Boy Scouts of America Troop 499, has earned the rank of "**Eagle**" by completing his Eagle Service Project by designing and constructing a sign at the First United Methodist Church in the City of Wharton; *and*

**WHEREAS,** the ultimate goal of the project was to recruit more youth and young families to the First United Methodist Church and to enhance the entrance and exit to the church and to increase the church's visibility; *and*

**WHEREAS,** **Landon Sneed** was recognized for receiving his rank of "**Eagle Scout**" during his Court of Honor held March 20, 2010.

**NOW, THEREFORE,** I, David W. Samuelson, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim

March 23, 2010 as ***Eagle Scout Landon Sneed Day,***

and urge the citizens of our community to recognize the merits of this worthwhile project; and to recognize and congratulate Landon Sneed for a job well done.

**IN WITNESS THEREOF,** I have set my hand and caused the seal of the City of Wharton to be affixed this 22<sup>nd</sup> day of March in the year of our Lord two thousand ten A.D.  
No action was taken.

The sixth item on the agenda was a proclamation declaring March 26, 2010 at Wharton High School Tennis Team Day. Mayor David W. Samuelson presented a proclamation declaring March 26, 2010 as Wharton High School Tennis Team Day in the City of Wharton, which read as follows:

**WHEREAS,** We realize that participation in organized athletics helps to build character and teaches a wholesome sense of fair play and good sportsmanship among our youth; and

**WHEREAS,** To really excel in athletics, a young person must demonstrate, in addition to a great deal of natural ability, an outstanding spirit of dedication, enthusiasm, and hard work; and

**WHEREAS,** A striking example of this has been brought to my attention in the achievement of the **WHARTON HIGH SCHOOL TENNIS TEAM** in their accomplishment of placing third in the 2010 Texas Tennis Coaches Association State Team Tournament held March 12 – 13, 2010 in San Marcos, Texas; and

**WHEREAS,** The **WHARTON HIGH SCHOOL TENNIS TEAM** for the 2010 season includes:

Paige Bahnsen (JR)	Tate Lowe (JR)	Landon Sneed (SR)
Zach Freese (SR)	Elizabeth Masek (JR)	Kris Stolte (Soph)
Adam Garza (SR)	Lindle Pennington (JR)	Trisha Thorton (JR)
Sarah Gubbels (SR)	Stephanie Perez (Soph)	Hunter Ustynik (Soph)
Cameron Kieler (SR)	Haley Rainer (SR)	Casey Woodfin (Soph)
Nick Lanza (SR)	Heather Reynolds (SR)	Dalton Woodfin (Soph)
Magen Lesak (SR)	Edward Robledo (JR)	Matthew Zahn (JR)
	Rebecca Sanders (JR)	

Roben Eller, WHS Head Tennis Coach Women's Coordinator	Todd Janik, WHS Assistant Tennis Coach Wharton Elementary Teacher
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**NOW, THEREFORE BE IT RESOLVED,** I, David W. Samuelson, by virtue of the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim

*March 26, 2010 as **WHARTON HIGH SCHOOL TENNIS TEAM DAY***

in Wharton, Texas, and encourage all our citizens to join me in honoring these young persons for a job well done in representing our community.

**IN WITNESS THEREOF,** I have hereunto set my hand and caused the seal of the City of Wharton to be affixed this 22<sup>nd</sup> day of March, in the year of our Lord two thousand ten A.D.

Coach Roben Eller stated that this season, the Tennis Team had 18 wins and 3 loses and were third in State, which was proud of the individuals.

No action was taken.

The seventh item on the agenda was to review and consider the City of Wharton Financial Report for the month of February 2010. Finance Director Joyce Vasut presented the financial report for the month of February 2010, which was at 42% or five months into the fiscal year. Mrs. Vasut stated that the total ad valorem taxes collected were \$815,816 and the sales tax for the month of January 2010 was \$136,744 with \$91,163 to the City and \$45,581 to WEDC. She further stated the TexPool balance for February was \$49,144.83 with an average monthly yield of 0.1512%. The Prosperity Bank balance for February 2010 was \$3,908,828.56 with an average monthly

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yield of 0.25%. She stated that other investments included \$2,649.11 at TexasGulf Federal Credit Union in the debt fund, \$253,001.93 at Capital One Marketing 2%; and Prosperity Bank \$1,500,000, six months at 1.00% interest, and \$250,000, one year at 1.25% interest. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Financial Report for the month of February 2010. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the request by Mrs. Debbi R. Dimmick, Congregational President, St. Paul Lutheran Church, for approval to place a 20" x 30" sign on City owned property located at Richmond Road and West Alabama Street. City Manager Andres Garza, Jr. presented a copy of the letter dated March 17, 2010 from Mrs. Debbi R. Dimmick, Congregational President, of St. Paul Lutheran Church, requesting approval to place a church directional sign on City of Wharton property located at the corner of Richmond Road and West Alabama Street. He also presented photographs of the proposed sign location of other church directional signs that had been placed in the City's right of way. He then presented a copy of the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising, Section 66-23 Church Directional Signs, that indicated that church directional signs were not prohibited for placement as long as the signs were not larger than six square feet in size. He said that additionally, a permit was not required for the sign placement. He said that the City Council Public Works Committee met to discuss the request. Building Official Ronnie Bollom addressed the City Council and stated the sign was requested to be placed in the existing concrete. He stated if the City would sell the property, the sign would be subject to possible removable. After some discussion, Councilmember Jeff Gubbels made a motion to approve the request by Mrs. Debbi R. Dimmick, Congregational President, St. Paul Lutheran Church, for approval to place a 20" x 30" sign on City owned property located at Richmond Road and West Alabama Street contingent upon the following: that the sign be constructed with a seven foot visibility beneath the sign, and that the placement of the sign on City owned property terminate should the property be sold. Councilmember Don Mueller seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council approving an amendment to extend the contract between the City of Wharton and AshBritt Environmental for Debris Removal Services and authorizing the Mayor of the City of Wharton to extend the agreement. City Manager Andres Garza, Jr. stated that on June 28, 2008, the Wharton City Council approved Resolution No. 2008-48 approving the contract between the City of Wharton and AshBritt Environmental for Debris Removal Services. He said that the contract was a two (2) year contract, which would expire on September 30, 2010. He said that Ms. Randi Milner, Marketing Manager for Ashbritten, Inc. was requesting the City of Wharton to extend the agreement one (1) additional year. He then presented a copy of her letter to Emergency Management Coordinator Jim Cooper providing the request. He then presented a copy of the contract amendment and a resolution approving the amendment. After some discussion, Councilmember Jeff Gubbels made a motion to approve Resolution No. 2010-09, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010 - 09**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN  
AMENDMENT TO EXTEND THE CONTRACT BETWEEN THE CITY OF WHARTON**

**AND ASHBRIIT, INC. FOR PRIMARY DISASTER DEBRIS CLEARANCE AND REMOVAL SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENT ON BEHALF OF THE CITY OF WHARTON.**

**WHEREAS,** On July 28, 2008, the Wharton City Council entered into a contract with Ashbriit, Inc. for primary Disaster Debris Clearance and Removal Services, which will expire on September 30, 2010; and

**WHEREAS,** the Wharton City Council wishes to approve an amendment extending the contract for one additional year; and

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

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

**Section I.** That the Wharton City Council hereby approves a contract amendment extending the agreement between the City of Wharton and Ashbriit, Inc. for primary Disaster Debris Clearance and Removal Services for one additional year.

**Section II.** That the Wharton City Council hereby approves to authorize the Mayor of the City of Wharton to execute the agreement.

**Section III.** That the City of Wharton and Ashbriit, Inc. are hereby bound by the conditions as set forth in the agreement.

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

**Passed, Approved, and Adopted** this the 22<sup>nd</sup> day of March 2010.

**CITY OF WHARTON**

**By:** \_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**

City Secretary

Councilmember Terry David Lynch seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the City Council acceptance of a grant award from the M.G. and Lillie A. Johnson Foundation, Inc. for funding for the purchase of a new ambulance for the Wharton Emergency Medical Service (EMS). City Manager Andres Garza, Jr. presented a copy of the letter dated March 15, 2010 from Mr. Robert Halepeska, Executive Vice

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President of the M.G. and Lillie A. Johnson Foundation, to EMS Director John Kowalik providing notification that the Foundation was awarded a \$50,000 matching grant that was to be used toward the purchase of a new ambulance for the Wharton EMS Department. He stated that City Council acceptance of the grant award was required. Mr. Kowalik addressed the City Council and stated that the fleet had a five year rotation and received the maximum matching grant award from M.G. and Lillie A. Johnson Foundation for the purchase of an ambulance. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the acceptance of a grant award from the M.G. and Lillie A. Johnson Foundation, Inc. for funding for the purchase of a new ambulance for the Wharton Emergency Medical Service (EMS) in the amount of \$50,000.00. Councilmember Don Mueller seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the request by Mr. Manual Thomas Trigo, Jr., Blue Cross EMS for City Council reconsideration to approve a City of Wharton Ambulance Provider Permit Application. City Manager Andres Garza, Jr. stated that during the regular March 8, 2010 Wharton City Council meeting, the City Council considered and denied the request by Mr. Manual Thomas Trigo, Jr., Blue Cross EMS, for a City of Wharton Ambulance Provider Permit. He then presented a copy of the letter dated March 9, 2010 to Mr. Trigo informing him that Blue Cross EMS was to cease operations in the City of Wharton. He said that Mr. Trigo responded with his letter dated March 12, 2010 requesting the City Council to reconsider his application. He also presented a copy of the letter dated March 15, 2010 informing him that his request would be placed on the City Council agenda for reconsideration by the City Council.

Mr. Michael Trigo addressed the City Council and stated that he was the Director of Operations and Blue Cross EMS had been in operation for ten years. He stated that he was requesting reconsideration of the ambulance provider permit that had expired on December 31, 2010. He stated that the letter was from his father, who was the attorney for the EMS service. Councilmember Terry David Lynch asked if Blue Cross EMS normally operated without a permit within the city limits. Mr. Trigo stated that there was miscommunication with their medics and others that he spoke with, including the City Secretary. He stated that he did not receive notification regarding the expiration of the permit. He stated that the medics were contacted by EMS Director John Kowalik and advised that they did not have an active permit; however, the medics did not advise him. He stated that two days later, Blue Cross EMS was transporting and was advised by Police Officer Justin Moran that they did not a valid permit. He stated that Police Officer Justin Moran contacted him and stated that the permit was not valid and that the medics were advised as well. Mr. Trigo stated that Blue Cross EMS then ceased operations in the City.

Mayor David W. Samuelson asked if he was aware of the 60 day renewal process. Mr. Trigo stated that he was not aware since 2008 was his first year. He stated that he did not receive the letter dated October 1, 2009 from the City of Wharton in the Houston office. Councilmember Domingo Montalvo, Jr. asked if Blue Cross EMS provided service in other communities. Mr. Trigo stated that Blue Cross EMS covers from McAllen to Kingsville, Corpus Christi, outside of Rosenberg, Houston, Katy, Flatonia, Gonzales – serving 10-12 nursing homes. He stated that Houston and Wharton were the only cities that required permits. He stated that no one else required permits. He said that last year was the first year to pay the \$500 application fee and unit fees for operating in the City and he was not aware of the 60 day renewal process.

Councilmember Terry David Lynch asked if Blue Cross EMS was notified on January 14, 2010. Mr. Trigo stated that he was sent paperwork from the City Secretary, which informed him to send the \$500 application fee along with the application. He stated that on February 11, 2010, the application fee and the application was submitted to the City of Wharton. Councilmember Terry David Lynch stated that on March 2, 2010 the medics of Blue Cross EMS was notified that a permit was not valid. He stated that he was not aware of any of that until he was contacted on March 11, 2010. Mayor Samuelson said that in the letter submitted by Blue Cross EMS, it stated as a result of arbitrary decision to not allow Blue Cross EMS to transport Ms. Chiquita Ishee to and from the dialysis center in Wharton, Texas, that the City was responsible for the adequate transportation for Ms. Chiquita Ishee. He stated that the City of Wharton would not be responsible for Blue Cross EMS patients. Mr. Trigo stated that he understood that. Mayor David W. Samuelson stated that the City of Wharton did not arbitrary deny the permit. He said that the permit was denied because Blue Cross EMS received notifications to renew; however, Blue Cross EMS did not, so that was not arbitrary. Councilmember Lewis Fortenberry, Jr. stated that all the regulations were included with the first permit and there was no reason why the City should have to advise him or the medics of such regulations to abide by. He stated that an expiration date was on the permit. He said that the City of Wharton was not responsible for Blue Cross EMS, Blue Cross EMS should be responsible for compliance.

Councilmember Domingo Montalvo, Jr. stated that in the previous statement, Blue Cross was only permitted by Houston and Wharton; therefore, there was not a lot of permits to keep up with since there were only two cities that required the permit. Mr. Trigo said that was correct. He said that he was requesting reconsideration of the permit. Councilmember Terry David Lynch asked if the equipment met the standards. Mr. Trigo stated that the ambulance was BLS certified. He stated that the City of Houston inspects the ambulances and required more than Kingsville. Councilmember Terry David Lynch asked if Kingsville required permits. Mr. Trigo stated that Kingsville required permits, but had not asked for a permit since Blue Cross EMS applied three years ago. Councilmember Terry David Lynch said that since Kingsville had not asked for a permit, then Blue Cross EMS does not know for sure that a permit would be required. Mr. Trigo said, no Kingsville did not require permits and did not send any letters. Councilmember Terry David Lynch requested verification on the City of Kingsville permit requirements.

Mayor David W. Samuelson informed Mr. Trigo that the City would contact him, when verification was completed. Councilmember Terry David Lynch stated that his decision would not be based on what happened in Kingsville, Texas, it would be based on Blue Cross EMS knowingly operated without a permit after being notified numerous times that their permit was invalid. Mr. Trigo stated that he followed the rules and regulations and put in the application, which the City accepted along with the application fee. Councilmember Terry David Lynch stated that the application was not submitted by the expiration of December 31, 2010. Councilmember Domingo Montalvo, Jr. asked if the fault lied with the City or Blue Cross EMS. Mr. Trigo said that the fault lied with him and he took full responsibility for regardless if he knew about it or not. Councilmember Domingo Montalvo, Jr. asked who was responsible for keeping up with the regulations. Mr. Trigo stated that he was. Councilmember Don Mueller asked where was the notification sent.

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City Secretary Lisa Olmeda stated that the October 1, 2009 letter was sent to the address on the permit application. Councilmember Terry David Lynch stated that a letter was sent on March 9, 2010 and medics were also advised. Mr. Trigo stated that the medics were not responsible for advising him. Mr. Trigo stated that he received a letter in the mail and a faxed letter, then he stopped operations in the City of Wharton. Councilmember Lewis Fortenberry, Jr. stated that the medics were notified three times. Mr. Trigo stated that he was not notified. Councilmember Lewis Fortenberry, Jr. stated that it was the responsibility of employees to advise their employer for occurrences. Councilmember Terry David Lynch stated that the City of Wharton was not soliciting any ambulance provider service; Blue Cross EMS was soliciting business in the City of Wharton and was responsible for meeting City's guidelines, not the City meeting Blue Cross EMS guidelines. Mr. Trigo stated that he did not receive any fines. He said that it was a miscommunication between the City of Wharton. He said that he received a letter signed from City that said passed and approval ordinances dated 2006. City Secretary Lisa Olmeda stated that the City of Wharton Ordinance was adopted in 2006. Mr. Trigo said that he was not in the City of Wharton in 2006 and he did not know why the documents were being sent. He said that it did not say Blue Cross on the document and he was not familiar with the document.

Mayor David W. Samuelson stated that the issue was that the Blue Cross EMS medics were notified and should have contacted you regarding the matter. He stated that the medics continued to transport patients after being notified that the permit was not valid. Mr. Trigo stated that the Blue Cross EMS medic that was advised by the City that did not contact him, no longer worked for Blue Cross EMS. EMS Director John Kowalik stated that medics were notified on three different times regarding the invalid permit. He stated that notification occurred once by himself and twice by Police Sergeant Justin Moran. Councilmember Domingo Montalvo, Jr. stated that the City would request more information regarding Blue Cross EMS from other cities. After some discussion, no action was taken.

The twelfth item discussed on the agenda was to review and consider the City of Wharton Annual Financial Report for Fiscal Year October 1, 2008 to September 30, 2009 by Harrison, Waldrop & Uherek, L.L.P. Steve Van Manen with Harrison, Waldrop & Uherek, LLP gave a presentation regarding the City of Wharton 2008-2009 Audit. After some discussion, Councilmember Jeff Gubbels made a motion to approve the City of Wharton Annual Financial Report for Fiscal Year October 1, 2008 to September 30, 2009 by Harrison, Waldrop & Uherek, L.L.P. as presented. Councilmember Don Mueller seconded the motion. All voted in favor.

The thirteenth item discussed on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.074 of the Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting:

A. **Discussion:** The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor David W. Samuelson adjourned into Executive Session at 7:59 p.m.  
Mayor David W. Samuelson returned to Open Session at 8:10 p.m.

The fourteenth item discussed on the agenda was Return to Open Session: Action on items discussed in Executive Session:

A. **Review & Consider:** The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor David W. Samuelson stated that no action would be taken.

The fifteenth item discussed on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic; Providing that a violation of the ordinance or any part of the code as adopted hereby shall constitute a penalty upon conviction of a fine; providing for severability and setting an effective date. Mayor David W. Samuelson stated that the item would be deferred until a later meeting. No action was taken.

The sixteenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving a Texas Department of Transportation Aviation Division, Airport Project Participation Agreement, TxDOT CSJ No. 1013WHRTN for improvements to the Wharton Regional Airport and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. stated that during the November 9, 2009 regular Wharton City Council meeting, the City Council approved Resolution No. 2009-93 approving the Texas Department of Transportation (TxDOT) Aviation Division, 2010 Capital Improvement Project for the Wharton Regional Airport. He then presented a copy of the letter dated March 2, 2010 from Mr. David S. Fulton, Director of TxDOT Aviation providing the Airport Project Participation Agreement for the engineering phase of the project. He said that the improvement project was being conducted to construct a new south entrance taxiway to the terminal apron, to widen the north entrance taxiway to the terminal apron, replace and upgrade nine taxiway culverts at the Wharton Regional Airport. He said that the estimated project design costs for the project would be approximately \$104,000, which the City of Wharton would be responsible for 10% (\$10,400) and the State 90% (\$93,600). He said that the total construction project costs were estimated at \$424,000. He then presented a draft resolution approving the agreement. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2010-10, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-10**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION, AIRPORT PARTICIPATION AGREEMENT (APPA), TxDOT CSJ NO. 1013WHRTN FOR IMPROVEMENTS TO THE WHARTON REGIONAL AIRPORT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS REALTED TO SAID AGREEMENT.**

**WHEREAS,** the City of Wharton was awarded TxDOT CSJ No. 1013WHRTN Contract by the State of Texas, acting through the Texas Department of Transportation, Aviation Division under the 2010 Capital Improvement Program; and

**WHEREAS,** the Wharton City Council wishes to establish the Texas Department of Transportation Airport Project Participation Agreement TxDOT CSJ No. 1013WHRTN between the State of Texas, acting through the Texas Department of Transportation Aviation Division and the City of Wharton for the engineering design services for the construction of a new south entrance

taxiway to the terminal apron, widen the north entrance taxiway to the entrance taxiway to the terminal apron, and replace and upgrade nine taxiway culverts; and

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

**WHEREAS,** this resolution is passed in accordance with said proposal.

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

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

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

**Passed, Approved, and Adopted** this 22<sup>nd</sup> day of March 2010.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**  
\_\_\_\_\_  
**LISA OLMEDA**  
**City Secretary**

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

The seventeenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving an amendment to the Interlocal Agreement for Jail Services between the City of Wharton and Wharton County and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated March 8, 2010 from Wharton County Judge John W. Murrile providing a contract amendment to increase the rates for the jail services provided by Wharton County. He said that the City Council Finance Committee met on March 3, 2010 with Wharton County representatives and determined that the City of Wharton should consider waiting to consider approving increases in the services until the 2010 – 2011 budget workshops. Finance Director Joyce Vasut stated that the increase would include an additional \$15,000 per year. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2010-11, which read as follows:

**CITY OF WHARTON**  
**RESOLUTION NO. 2010 - 11**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AMENDMENT TO THE INTERLOCAL AGREEMENT FOR JAIL SERVICES**

**BETWEEN THE CITY OF WHARTON AND WHARTON COUNTY AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

- WHEREAS,** the City of Wharton received jail services from Wharton County; and
- WHEREAS,** Wharton County wishes to increase the rates for said services to \$44.50 per day per inmate; and
- WHEREAS,** the Wharton City Council wishes to amend the contract by increasing the rates to \$44.50 per day per inmate for said services; and
- WHEREAS,** the Wharton City Council and Wharton County wish to be bound by the conditions of the contract; and
- WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas, to execute the agreement; and
- WHEREAS,** this resolution is passed in accordance with said proposal.

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

- Section I. That the City of Wharton hereby approves an amendment to the contract with Wharton County for jail services by increasing the rates to \$44.50 per day per inmate
- Section II. The Mayor of the City of Wharton is hereby authorized to the agreement.
- Section III: That this resolution shall be come effective immediately upon its passage.

**Passed, Approved, and Adopted** this 22<sup>nd</sup> day of March 2010.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**  
**City Secretary**

Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The eighteenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving to conduct additional improvements to the City of Wharton Ahldag Addition Sanitary Sewer System Improvement Project under the TxCDBG Contract No. 728459, Additional Lines and authorizing the Mayor to execute any necessary documents related to said

project. City Manager Andres Garza, Jr. presented a copy of the memorandum dated March 8, 2010 from Public Works Carter Miska regarding the Ahldag Addition Sanitary Sewer System Improvement Project, TxCDBG Contract No. 728459. He said that the City had approximately \$40,000 remaining in ORCA grant funds for this project. He said that Mr. Miska was recommending the additional funds be used to replace a 500 foot section of dead end sewer line on Belle Street from Abell westward to its end at the Ahldag Drainage Outfall Channel. He said that some of the remaining funds could be used to replace short and long sewer services on Dahlgren from Fulton Street to Richmond Road, which he concurred with the recommendation by Public Works Director Carter Miska. He said that the State had indicated that a small purchase contract (using the City of Wharton Purchasing Policy for purchases under \$50,000) would be allowed. He said that additional engineering and surveying would be required for the Belle Street improvements and the City Staff was recommending that BEFCO Engineering be paid on an hourly basis for an amount not to exceed \$10,500, which this amount would be in addition to the \$70,000 originally paid. He said that the funding for the additional engineering was available from the City 2010 Bond Fund for utility system improvements. He said if approved by the City Council, a contract amendment would be submitted to the State. He said that the City Council Public Works Committee met to discuss the additional lines. Mr. Miska stated that the area would be 90% completed with improvements of the additional lines. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2010-12, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010 - 12**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING TO CONDUCT ADDITIONAL IMPROVEMENTS TO THE CITY OF WHARTON AHLDAG ADDITION SANITARY SEWER SYSTEM IMPROVEMENT PROJECT UNDER THE TXCDBG CONTRACT NO. 728459, ADDITIONAL LINES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ANY NECESSARY DOCUMENTS RELATED TO SAID PROJECT.**

**WHEREAS,** the Office of Rural Community Affairs awarded the City of Wharton the Texas Community Development Block Grant Contract No. 728459 for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project; and

**WHEREAS,** the City of Wharton has an additional \$40,000 under said contract; and

**WHEREAS,** the Wharton City Council wishes to amend said contract to conduct additional work in the Ahldag Addition; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the contract.

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

**Section I.** That the Wharton City Council hereby approves to amend the Ahldag Addition Sanitary Sewer Improvement Project, Texas Community Development Block Grant Contract No. 728459 to conduct additional work.

**Section II.** The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the contract.

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

**Passed, Approved, and Adopted** this 22<sup>nd</sup> of March 2010.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**  
**City Secretary**

Councilmember Terry David Lynch seconded the motion. All voted in favor.

The nineteenth item discussed on the agenda was to review and consider the City Council authorization for the City Staff to pay for the emergency repairs to the Wastewater Treatment Plant No. 1 blower conducted by LIC Services LLP. City Manager Andres Garza, Jr. presented a copy of the quote dated February 25, 2010 from LIC Services LLC for repairs to the blower at the WWTP No. 1 and photographs of the blower. He said that the blower was in need of immediate repairs, which he authorized. He said that the blower was being repaired and the City Staff was seeking authorization to pay for the repairs once the work was completed. He said that it was critical to repair the blower before it actually became inoperable, which would have a negative impact on the plant. He said that the City Council Public Works Committee met to discuss the emergency repairs. Public Works Director Carter Miska stated that there was only one blower running; therefore, emergency repairs needed to be conducted in order for the plant to continue operations. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the payment of emergency repairs to the Wastewater Treatment Plant No. 1 blower conducted by LIC Services LLP in the amount of \$13,617.20 once the work was completed and inspected by Public Works Director Carter Miska. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Developer Customer Utility Service Agreement between the City of Wharton and HQ Properties for the installation of utilities at the property known as the HQ Properties Subdivision; 2.280 Ac. Tract and a 1.767 Ac. Tract, Wm. Kincheloe League, Abstract No. 38 and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that during the regular January 25, 2010 Wharton City Council meeting, the City Council approved the replat of the HQ Properties Subdivision; 2.280 Ac. Tract and a 1.767 Ac. Tract, Wm. Kincheloe League, Abstract No. 38. He said that the property was replatted for

development of commercial businesses. He said that Mr. Gary Hmaidan, Owner of HQ Properties, was ready to move forward with the installation of the required utilities. He then presented a copy of the proposed Developer Customer Utility Service Agreement that was required between the City and HQ Properties. He said that the agreement allowed for the developer to engage the services of his own engineer and contractor to conduct the work; however, the developer would be required to reimburse the City for any review of the engineering drawings, plans and specifications, and contract documents. He said that the City would also be reimbursed for any inspections that would be conducted by the City during the actual construction of the utility lines. He said that after reviewing the City's subdivision ordinance, the developer was required to pay 100% of the extensions. He said that the City Council Public Works Committee met to discuss to agreement. He said the estimated cost for review of engineering drawings, plans, specifications, and inspections was \$5,000.00. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2010-13, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-13**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A DEVELOPER CUSTOMER UTILITY SERVICE AGREEMENT BETWEEN THE CITY OF WHARTON AND HQ PROPERTIES FOR THE INSTALLATION OF UTILITIES AT THE PROPERTY KNOWN AS THE HQ PROPERTIES SUBDIVISION; 2.280 AC. TRACT AND A 1.767 AC. TRACT, WM. KINCHELOE LEAGUE, ABSTRACT 38 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the City of Wharton and HQ Properties wishes to enter in an agreement for the installation of utility services for the real estate property known as the HQ Properties Subdivision; 2.280 Ac. Tract and a 1.767 Ac. Tract, Wm. Kincheloe League, Abstract 38; and

**WHEREAS,** the Wharton City Council wishes to approve the City of Wharton Developer Customer Utility Service Agreement; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the agreement.

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

**Section I.** That the Wharton City Council hereby approves the City of Wharton Developer Customer Utility Service Agreement between the City of Wharton and HQ Properties.

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

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

**Passed, Approved, and Adopted** this 22<sup>nd</sup> day of March 2010.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**

City Secretary

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The twenty-first item discussed on the agenda was to review and consider the City of Wharton FM 1301 Road Extension and Over Pass Project. City Manager Andres Garza, Jr. stated that on February 18, 2010 a memorandum to City Council was sent regarding the City of Wharton not receiving funding under the U.S. Department of Transportation – Transportation Investment Generating Economic Recovery Grant (TIGER) Program. He said that the City of Wharton had submitted its application for funding consideration under the TIGER program for the proposed FM 1301 Extension/Overpass project. He said that since funding was not available to the City of Wharton under the TIGER program for the project, the City Council Public Works Committee may consider moving forward with the project. He said that the Texas Department of Transportation (TxDOT) had committed \$2,000,000 toward the project. He said that the City of Wharton may consider reducing the size of the overpass from four lanes to two lanes and to extend FM 1301 to FM 102. He then presented a copy of the executive summary that was submitted with the City’s TIGER grant application. He said that the City Council Public Works Committee met to discuss the project. After some discussion, no action was taken.

The twenty-second item discussed on the agenda was to review and consider the City Council authorization for the City Staff to prepare an application for certain projects for submission to the Texas Department of Transportation 2010 Program Call for highway projects to be developed under the Pass-Through Finance Program. City Manager Andres Garza, Jr. presented a copy of the letter dated March 12, 2010 from Mr. Lonnie J. Gregorcyk, P.E., District Engineer of the Texas Department of Transportation (TxDOT) Yoakum District providing information regarding the TxDOT 2010 Program Call for Pass Through Finance Program Projects. He said that the City Council Public Works Committee discussed whether or not the City of Wharton should apply for funding under this program and for which project should be included in an application. Mr. Carlos Cotton with Jones & Carter stated that the design could be reduced to a two lane overpass, which would reduce the cost significantly. After some discussion, Councilmember Jeff Gubbels made a motion to authorize the City Staff to prepare an application for the railroad overpass project for submission to the Texas Department of Transportation 2010 Program Call for highway projects to be developed under the Pass-Through Finance Program. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twenty-third item discussed on the agenda was to review and consider the City Council authorization to submit a letter of support to Congressional Representatives, on behalf of the Alliance for I-69, for I-69 Corridor Federal Funding consideration during the FY2010

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Appropriations. City Manager Andres Garza, Jr. presented a copy of the email dated March 8, 2010 from Mr. David Schroeder, Executive Director of the Wharton Economic Development Corporation (WEDC) requesting the City of Wharton to submit a letter of Congressional support for the I-69 Tier 2 study. He also presented a copy of a sample letter of support and a draft letter of support that could be submitted by the City of Wharton. He said that upon approval of the City Council, the Mayor would be authorized to execute the proposed letter for submission to Congress. After some discussion, Councilmember Don Mueller made a motion to authorize the submission of a letter of support to Congressional Representatives, on behalf of the Alliance for I-69, for I-69 Corridor Federal Funding consideration during the FY2010 Appropriations. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The twenty-fourth item discussed on the agenda was to review and consider the City Council authorization for the City Staff to solicit bids for the City of Wharton Surplus Property. City Manager Andres Garza, Jr. presented a list of City of Wharton Surplus Property. He said that the City Staff was seeking City Council authorization to solicit bids to sale the surplus property. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the city Staff to solicit bids for the City of Wharton Surplus Property. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The twenty-fifth item on the agenda was to review and consider the City Council authorization for the City Staff to solicit proposals for City of Wharton Auditing Services. Finance Director Joyce Vasut stated that the contract between the City of Wharton and Harrison, Waldrop & Uherek, L.L.P for City of Wharton Financial Auditing Services expired since the audit was completed and accepted. She said that the City Staff was seeking City Council authorization to solicit proposals for financial auditing services. After some discussion, Councilmember Don Mueller made a motion to authorize the City Staff to solicit proposals for City of Wharton Auditing Services. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The twenty-sixth item on the agenda was to review and consider the Status Report on City of Wharton Projects. City Manager Andres Garza, Jr. presented a copy of the memorandum dated March 22, 2010 providing an update on the City of Wharton projects, which read as follows:  
**FLOOD REDUCTION (LEVEE) PROJECT**

The U.S. Army Corp of Engineers Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report was located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.swf.usace.army.mil/pubdata/notices/LowerColorado/>.

The project was continuing to move forward. In regards to the pre-construction, engineering and design (PED) aspect of the project, the LCRA Board had approved their continuing as sponsor of the PED. On September 28, 2009, the Wharton City Council approved to amend the agreement between the City of Wharton and the Lower Colorado River Authority (LCRA) for the Lower Colorado River Basin Phase I – Texas, City of Wharton Flood Damage Reduction Project by amending the project scope to reflect the partial development of the project design and to increase the project cost by \$37,000. On January 22, 2010, the City of Wharton received the contracts for second amendment to the contract for execution by the Mayor.

**DRAINAGE:**

1. Santa Fe Outfall Channel.

Due to continuous rain very little work on the channel had occurred this month. The week of February 15<sup>th</sup> the soil dried just enough to send crews in to repair areas that were beginning to erode. The Public Works Department and the County would continue to excavate the remainder of the channel weather permitting.

**WATER/SEWER IMPROVEMENTS:**

1. Ahldag Addition Sanitary Sewer Project - TxCDBG Contract No. 728459.

The Texas Department of Rural Affairs had approved the contract amendment. When weather improves, Supak Construction would begin installation of three additional sewer lines in the Ahldag neighborhood. After the three additional lines were installed, there would be \$64,320 in grant funds remaining. BEFCO, Inc. and city staff were working on ideas to spend the remaining funds. One option was to replace the sewer line on Belle St. from N Abell westward to the Ahldag Ditch and replace the short and long sewer leads on Dahlgren from Fulton to Richmond Rd.

2. Ahldag Addition Sanitary Sewer Project – TxCDBG Contract No. R729710.

The environmental assessment was approved and funds had been released for construction. Jones & Carter, Inc. and city staff were working together to complete construction plans. Jones & Carter, Inc. had crews surveying the area in an effort to complete designs.

3. Vahalla Water Well.

The Public Works Department placed the Vahalla water well back on line the week of April 27, 2009. The Public Works Department discontinued the injection of Polyphosphates into the water system at the end of January, 2010. As of February 18, 2010 no problems or red water calls had been reported.

4. Water Storage Tank Maintenance Program.

City staff issued a request for qualifications for the water storage tank maintenance program and to designate a consultant selection committee. The deadline for qualifications to be submitted had passed. The City Staff was developing the proposed contract to be submitted to the contractor for consideration.

5. Alabama Water Well Rework

The City of Wharton submitted a request for bids to rework Well No. 1 and Well No. 3 at the Alabama Water Plant. Layne Christensen Company was the lowest bidder. Jones and Carter, Inc. and city staff were currently working on the contract with Layne Christensen Company to complete the rework on both wells. Contracts were expected to be completed and signed within the next two weeks. Rework on the wells was expected to begin within the next two weeks.

6. Quick Connect/Transfer Switch Project

City staff was working with Jones & Carter, Inc. to complete electrical engineering designs for all city lift stations, city water plants, City Hall, the Fire Station, EMS Headquarters, WWTP

#1, and WWTP#2. The designs were for the installation of quick connects and transfer switches on all the above mentioned facilities. This would allow city staff to operate these facilities via generator in the event of a power failure.

### **STREET IMPROVEMENTS**

1. Road Extension Project between FM 1301 and County Road 235/FM102.

On February 17, 2010, the U.S. Department of Transportation issued information regarding the projects that were funded under the TIGER Grants. Approximately fifty (50) projects were funded under the grant. Unfortunately, the City of Wharton was not included among those awarded. However, there may be funding available during 2010 for an additional round of project awards. The City Staff would investigate if the second round would be considered utilizing the applications that were initially submitted or if the City would need to submit a second application. Also, the Texas Department of Transportation (TxDOT) had issued a call for projects under the "Pass Through Finance Program". The City Staff would meet with the City Council Public Works Committee to formulate a recommendation to the City Council.

### **OTHER PROJECTS:**

1. Fire Station Improvements ADA Accessibility.

This project had been completed.

2. Ahldag Drainage Outfall Channel Bridge Project.

The project had been started by Wakefield Bridge and was nearing completion. Final inspection was expected within the next two weeks.

No action was taken.

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

- A. Wharton Regional Airport Board meeting held March 9, 2010.
- B. Beautification Commission meeting held March 10, 2010.
- C. City Council Public Safety Committee meeting held March 11, 2010.
- D. Planning Commission meeting held March 15, 2010.
- E. Building Standards Commission meeting held March 18, 2010.
- F. City Council Public Works meeting held March 22, 2010.
- G. City Council Finance Committee meeting held March 22, 2010.

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

The twenty-eighth item on the agenda was City Manager's Reports:

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

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

The twenty-ninth item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The meeting adjourned at 8:45 p.m.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**  
City Secretary