

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
FEBRUBARY 25, 2019**

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

Councilmember's present were: Mayor Tim Barker and Councilmembers Al Bryant, Terry Freese, Alice Heard-Roberts, Don Mueller and Russell Machann.

Councilmember absent was: Steve Schneider.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anandel, City Attorney Paul Webb, City Secretary Paula Favors, TRMC, CPM, Community Development Director Gwyneth Teves, Police Chief Terry David Lynch and Interim Public Works Director Robert Ewart.

Visitors present were: Randy Myer, Wharton Lion's Club President, Tom Sage of Hunton Andrew Kurth LLP, Audra Herrera with Hunton Andrews Kurth, LLP, James Gilley, Jr. with U.S. Capital Advisors, Isaiah Coleman, Wharton I.S.D. Superintendent Tina Herrington and Albert Villegas with the Wharton Journal Spectator.

The second item on the agenda was Roll Call and Excused Absences. After some discussion, Councilmember Russell Machann moved to excuse Councilmember Steve Schneider. Councilmember Al Bryant seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Mr. Isaiah Coleman thanked the City Council for the contact made in regards to the railroad crossing issues and requested pot holes on the West Side of the City be addressed as well. Randy Myer, Wharton Lion's Club President, thanked City Manager Andres Garza, Jr., Mayor and City Council and Civic Center Manager Makyla Monroe for their assistance with making the Lions Club's district meeting where over 150 people attended at the Wharton Civic Center possible.

The fourth item on the agenda was the Wharton Moment. City Attorney Paul Webb gave his condolences to the Shoppa Family with the passing of Mr. Lloyd Shoppa. Mayor Tim Barker stated that Mr. Shoppa was a Wharton icon and a true gentleman and would be greatly missed. Councilmember Alice Heard-Roberts stated she had become the Funeral Director of the Gooden-Hatton Funeral Home.

Wharton City Council Regular Meeting
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The fifth item on the agenda was to review and consider the City of Wharton Finance Report for January 2019. Finance Director Joan Andel presented the financial report for the month of January 2019. Mrs. Andel stated that the TexPool balance for January was \$676,214.35 with an average monthly yield of 2.39%. She said the Prosperity Bank balance for January 2019 was \$5,371,913.14 with an average monthly yield of 25%. After some discussion, Councilmember Russell Machann moved to approve the City of Wharton Financial Report for the month of January 2019. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider an ordinance approving an amendment to the City of Wharton Budget October 1, 2017 – September 30, 2018. Finance Director Joan Andel presented the City of Wharton Budget Adjustments for fiscal year October 1, 2017 through September 30, 2018. Mrs. Andel stated the item would be postponed till the next regular City Council meeting. After some discussion, no action was taken.

The seventh item discussed on the agenda was to review and consider a request from Wharton Independent School District:

- A. Request for the waiver of fees or reduced fees for required permits for the 2018 Bond Project.
- B. Request for Street Closures at North Abell Street (the entire length from East Belle Street to East Ahldag Avenue) and Old Boling Highway (from John Knox Street to North Alabama Road).

City Manager Andres Garza, Jr. stated the Wharton Independent School District was requesting that certain section of existing City Streets be closed to through traffic for the development of facilities proposed by the District. City Manager Garza said the District would assume surface rights to the properties and grant easements to the City for any known existing utilities and the District would also pay for and provide instruments of service to the City for the platting of the street closures. Superintendent Tina Herrington requested the waiver of fees or reduced fees for the required permits for the 2018 Bond Project. After some discussion, Councilmember Alice Heard-Roberts moved to approve reducing the permit fee to cover the third party plan review and inspection for the 2018 Bond Project and to begin the process for street closures at North Abell Street (the entire length from East Belle Street to East Ahldag Avenue) and Old Boling Highway (from John Knox Street to North Alabama Road). Councilmember Russell Machann seconded the motion. All voted in favor.

The eighth item discussed on the agenda was to review and consider an Ordinance: Parameter Sale of General Obligation Refunding Bonds, Series 2019. Mr. James Gilley of Hunton Andrew Kurth LLP, gave a presentation regarding Parameter Sale of General Obligation Refunding Bonds, Series 2019. Mr. Gilley stated no action would be have to be taken since it was previously approved. After some discussion, no action was taken.

The ninth item discussed on the agenda was to review and consider Ordinance: An ordinance authorizing the Issuance of Tax and Revenue Certificates of Obligation, Series 2019. Mr. James Gilley of Hunton Andrew Kurth LLP, gave a presentation regarding the Issuance of Tax and Revenue Certificates of Obligation, Series 2019. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2019-09, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-09**

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF WHARTON, TEXAS,
TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019**

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 February 25, 2019, to adopt an ordinance and take such other action as may be deemed necessary to authorize the issuance of certificates of obligation (the “Certificates”) payable from City ad valorem taxes and from a limited pledge of a subordinate lien on the net revenues of the City’s waterworks and sanitary sewer system, for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with (i) the construction and rehabilitation of City streets and related drainage; (ii) the purchase of vehicles and equipment; (iii) the construction and rehabilitation of City hangars at the airport; (iv) the construction and rehabilitation of City water and sewer systems; (v) building and facility improvements; (vi) technology upgrades; (vii) the purchase of materials, supplies, equipment or machinery in connection with any of the foregoing; and (viii) the costs of professional services or other expenses of issuing the certificates of obligation; and

WHEREAS, such notice was published at the times and in the manner required by the Constitution and laws of the State of Texas and of the United States of America, respectively, particularly Subchapter C of Chapter 271, Texas Local Government Code; 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 the Certificates be submitted to a referendum or other election; therefore

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

1. Recitals. It is hereby found and determined that the matters and facts set out in the preamble to this Ordinance are true and correct.

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

“Act” means Subchapter C of Chapter 271, Texas Local Government Code.

“Business Day” means any day which is not a Saturday, Sunday, a day on which Registrar is authorized by law or executive order to close, or a legal holiday. Any payments

required hereunder to be made on any day which is not a Business Day may be made instead on the next succeeding Business Day, and no interest shall accrue on such payments in the interim.

“Certificate” or “Certificates” means the City of Wharton, Texas, Tax and Revenue Certificates of Obligation, Series 2019 authorized in this Ordinance, unless the context clearly indicates otherwise.

“City” means the City of Wharton, Texas.

“Code” means the Internal Revenue Code of 1986.

“Comptroller” means the Comptroller of Public Accounts of the State of Texas.

“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 and Sinking Fund” means the interest and sinking fund for payment of the Certificates established by the City in Section 20 of this Ordinance.

“Interest Payment Date”, when used in connection with any Certificate, means December 1, 2019, and each June 1 and December 1 thereafter until maturity or earlier redemption.

“Initial Certificate” means the Initial Certificate authorized by Section 6(d).

“Issuance Date” means the date of the Certificates’ initial delivery to the Underwriter.

“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 calendar day of the 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 registered to each Owner.

“Registrar” means Zions Bancorporation, National Association, Houston, Texas, and its successors in that capacity.

“Underwriter” means the firm or syndicate that is the initial purchaser of the Certificates, as specified in Section 24.

3. Authorization; Finding. The Certificates shall be issued pursuant to the Act in fully registered form, without coupons, in the total authorized principal amount of \$___ for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with (i) the construction and rehabilitation of City streets and related drainage; (ii) the purchase of vehicles and equipment; (iii) the construction and rehabilitation of City hangars at the airport; (iv) the construction and rehabilitation of City water and sewer systems; (v) building and facility improvements; (vi) technology upgrades; (vii) the purchase of materials, supplies, equipment or machinery in connection with any of the foregoing; and (viii) the costs of professional services or other expenses of issuing the certificates of obligation. It is hereby found and determined that the sale of the Certificates by the City to the Underwriter contemplated herein is in the best interests of the City.

4. Designation, Date, and Interest Payment Dates. The Certificates shall be designated as the “CITY OF WHARTON, TEXAS, TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019”, and shall be dated March 1, 2019. The Certificates shall bear interest at the rates set forth in Section 5 of this Ordinance from the later of the Issuance Date set forth in the Form of Certificate contained herein, 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 each Interest Payment Date.

5. 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>
2020	\$70,000	
2021	100,000	
2022	105,000	
2023	110,000	
2024	115,000	
2026	120,000	
2027	125,000	
2028	130,000	
2029	135,000	
2030	145,000	
2031	150,000	

2032	155,000
2033	160,000
2034	165,000
2035	175,000
2036	180,000
2037	190,000
2038	195,000
2039	205,000

6. 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 Issuance 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 Issuance 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, 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.

7. Payment of Principal and Interest. The Registrar is hereby appointed as the paying agent 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 become due and payable at the principal payment office of the Registrar in Houston, Texas. The interest on each Certificate shall be

payable by check payable on the Interest Payment Date, mailed by the Registrar on or before each Interest Payment Date to the Owner of record as of the Record Date, to the address of such Owner as shown on the Register.

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 original date payment was due.

8. Successor Registrars. The City covenants that at all times while any Certificates are outstanding it will provide a commercial bank or trust company organized under the laws of the United States or any state and duly qualified and legally authorized to serve as Registrar for the Certificates. The City reserves the right to change the Registrar on not less than 45 days written notice to the Registrar. 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.

9. 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) business 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.

10. 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 payment of principal 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.

11. Registration, Transfer, and Exchange. So long as any Certificates remain outstanding, the Registrar shall keep the Register at its principal payment office in [Houston, Texas], 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 Houston, Texas, 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 Houston, Texas, 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.

12. 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.

13. 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 canceled 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.

14. Book-Entry System. (a) The Initial Certificate shall be registered in the name of _____ . Except as provided in Section 15 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.

15. 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 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.

16. 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.

17. Optional and/or Mandatory Redemption. The Certificates are subject to optional and/or 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 11 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.

The City reserve the right to defease the Certificates in any manner now or hereafter permitted by law.

18. Forms. The form of the Certificates, including the form of Registration Certificate of the Comptroller of Public Accounts, which shall be attached or affixed to the Initial Certificate, the form of the Registrar's Authentication Certificate, and the form of Assignment, 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 the legend regarding bond insurance, if any, set forth in **Exhibit A** attached hereto:

[Remainder of page intentionally left blank]

rate or rates not to exceed the maximum interest rate now or hereafter authorized by law, as shall be determined within the discretion of the City Council at the time of issuance, and maturing over a period of years not to exceed forty (40) years from the date thereof, for the purpose of evidencing the indebtedness of the City for all or any part of the costs of: (i) the construction and rehabilitation of City streets and related drainage; (ii) the purchase of vehicles and equipment; (iii) the construction and rehabilitation of City hangars at the airport; (iv) the construction and rehabilitation of City water and sewer systems; (v) building and facility improvements; (vi) technology upgrades; (vii) the purchase of materials, supplies, equipment or machinery in connection with any of the foregoing; and (viii) the costs of professional services or other expenses of issuing the certificates of obligation; 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 to redeem Certificates maturing on and after June 1, 2029, prior to their scheduled maturities, in whole or from time to time in part, in integral multiples of \$5,000, on June 1, 2028, 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 maturing in the years _____, and _____ (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:]

The particular Term Certificates to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before ___ of each year in which Term Certificates are to be mandatorily redeemed. The principal amount of Term Certificates to be mandatorily redeemed in each year shall be reduced by the principal amount of such Term Certificates that have been acquired by the City and delivered to the Registrar for cancellation 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 Houston, Texas, 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 Houston, Texas, 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.

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 waterworks and sanitary 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 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.

Wharton City Council Regular Meeting
February 25, 2019

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

Mayor

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 _____.

(SEAL)

Comptroller of Public Accounts
of the State of Texas

(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.

Zions Bancorporation, National Association
As Paying Agent/Registrar

By _____
Authorized Signature
Date of Authentication _____

[Remainder of page intentionally left blank]

(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

correspond

NOTICE: The signature above must

shown

to the name of the registered owner as

particular,

on the face of this Certificate in every

NOTICE: Signature must be guaranteed
change

without any alteration, enlargement or

by a member firm of the New York Stock
Exchange or a commercial bank or trust
company.

whatsoever.

[Remainder of page intentionally left blank]

(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 5]

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

19. 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. The Mayor or the Finance Director is hereby authorized to approve the final form of bond insurance commitment attached hereto as **Exhibit A**. The Certificates shall bear the legend regarding bond insurance, if any, set forth in **Exhibit A**, and any and all terms and conditions of the bond insurer contained in **Exhibit A** and required to be included within this Ordinance are hereby fully incorporated herein by this reference.

20. Interest and Sinking 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 2019 Interest and Sinking Fund (the “Interest and Sinking 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 Interest and Sinking 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, an 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.

21. Limited 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 sanitary 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 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 Net Revenues securing the Certificates.

22. 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 20 and 21 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 20 and 21 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.

23. 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.

24. Sale. The sale and delivery of the Certificates to _____ (the "Underwriter") at a price of par, plus cash premium of \$_____, less an underwriter's discount of \$_____, 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 Hunton Andrews Kurth LLP, Houston, Texas, bond counsel, and any other documents or items required herein or in the Notice of Sale related to the public sale of the Certificates. It is hereby found and declared that the Certificates were sold at public sale and that the bid of the Underwriter was the best conforming bid received by the City.

25. Federal Income Tax Exclusion. The City intends that the interest on the Certificates on the Certificates shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986 (the “Code”) and all applicable temporary, proposed and final regulations (the “Regulations”) and procedures promulgated thereunder and applicable to the Certificates. For this purpose, the City covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Certificates (including all property, the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Certificates) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause the interest on the Certificates to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Certificates for federal income tax purposes. Without limiting the generality of the foregoing, the City shall comply with each of the following covenants:

- (a) The City will use all of the proceeds of the Certificates to (i) provide funds for the purposes described in Section 3 of this Ordinance, which will be owned and operated by the City and (ii) to pay the costs of issuing the Certificates. The City will not use any portion of the proceeds of the Certificates to pay the principal of or interest or redemption premium on, any other obligation of the City or a related person.
- (b) The City will not directly or indirectly take any action, or omit to take any action, which action or omission would cause the Certificates to constitute “private activity bonds” within the meaning of Section 141(a) of the Code.
- (c) Principal of and interest on the Certificates will be paid solely from ad valorem taxes collected by the City, investment earnings on such collections, and as available, proceeds of the Certificates.
- (d) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Certificates are delivered, the City reasonably expects that the proceeds of the Certificates will not be used in a manner that would cause the Certificates or any portion thereof to be an “arbitrage bond” within the meaning of Section 148 of the Code.
- (e) At all times while the Certificates are outstanding, the City will identify and properly account for all amounts constituting gross proceeds of the Certificates in accordance with the Regulations. The City will monitor the yield on the investments of the proceeds of the Certificates and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Certificates. To the extent necessary to prevent the Certificates from constituting “arbitrage bonds,” the City will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Certificates to be less than the yield that is materially higher than the yield on the Certificates.

- (f) The City will not take any action or knowingly omit to take any action that, if taken or omitted, would cause the Certificates to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.
- (g) The City represents that not more than fifty percent (50%) of the proceeds of the Certificates will be invested in nonpurpose investments (as defined in Section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the City reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Certificates will be used to carry out the governmental purpose of the Certificates within the three-year period beginning on the date of issue of the Certificates.
- (h) 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, if any, be rebated to the federal government. Specifically, the City will (i) maintain records regarding the receipt, investment, and expenditure of the gross proceeds of the Certificates as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the City allocable to other obligations of the City or moneys which do not represent gross proceeds of any obligations of the City and retain such records for at least six years after the day on which the last outstanding Certificate is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of any gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Certificates and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the City will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, interest thereon and any penalty.
- (i) The City will not directly or 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 such arrangement had been at arm’s length and had the yield on the Certificates not been relevant to either party.

- (j) The City will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Certificates on such form and in such place as the Secretary may prescribe.
- (k) The City will not issue or use the Certificates as part of an “abusive arbitrage device” (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Certificates are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the City to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.
- (l) Proper officers of the City charged with the responsibility for issuing the Certificates are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the date of issuance of the Certificates and stating whether there are facts, estimates or circumstances that would materially change the City’s expectations. On or after the date of issuance of the Certificates, the City will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.
- (m) The covenants and representations made or required by this Section are for the benefit of the Certificate holders and any subsequent Certificate holder, and may be relied upon by the Certificate holders and any subsequent Certificate holder and bond counsel to the City.

In complying with the foregoing covenants, the City may rely upon an unqualified opinion issued to the City by nationally recognized bond counsel that any action by the City or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Certificates to be includable in gross income for federal income tax purposes under existing law.

Notwithstanding any other provision of this Ordinance, the City’s representations and obligations under the covenants and provisions of this Section 25 shall survive the defeasance and discharge of the Certificates for as long as such matters are relevant to the exclusion of interest on the Certificates from the gross income of the owners for federal income tax purposes.

26. Qualified Tax-Exempt Obligations. The City hereby designates the Certificates as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code. With respect to such designation, the City represents the following: (a) that during the calendar year 2015, the City (including all entities which issue obligations on behalf of the City), has not designated nor will designate obligations, which when aggregated with the Certificates will result in more than \$10,000,000 of “qualified tax-exempt obligations” being issued and (b) that the City has examined its financing needs for the calendar year 2019 and reasonably anticipates that the amount of bonds, leases, loans or other obligations, together with the Certificates and any other tax-exempt obligations heretofore issued by the City (plus those of all entities which issue

obligations on behalf of the City) during the calendar year 2019, when the higher of the face amount or the issue price of each such tax-exempt obligation issued for the calendar year 2019 by the City is taken into account, will not exceed \$10,000,000.

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

- (a) Certificate proceeds in the amount of \$_____ shall be deposited into the Project Fund.
- (b) Certificate proceeds in the amount of \$_____ shall be used to pay costs of issuance.
- (c) Any Certificate proceeds remaining after accomplishing the purposes set out in Section 3 (including paying the costs of issuance), plus earnings on investments of such proceeds, shall be transferred to the Interest and Sinking Fund.

28. Official Statement. The City hereby approves the form and content and distribution of the Official Notice of Sale and Bidding Instructions and 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 Purchase Agreement and other relevant information. The use of such final Official Statement by the Underwriter is hereby approved and authorized and the proper officials of the City are authorized to sign such Official Statement.

29. *Continuing Disclosure Undertaking.* *As used in this Article, the following terms have the meanings ascribed to such terms below:*

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12.

“SEC” means the United States Securities and Exchange Commission.

(a) The City will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB and available via the Electronic Municipal Market Access (“EMMA”) system at www.emma.msrb.org. 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 authorized by Section 28 of this Ordinance, in tables 1-6 and 8 of Appendix A and in Appendix C. The City shall update such information within six months after the end of each fiscal year. Any financial statements so to be provided shall be (1) prepared in accordance with such accounting principles as the City may be required to employ from time to time pursuant to State law or regulation and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not so

provided, then the City shall provide unaudited financial statements for the applicable fiscal year by the required time, and audited financial statements when and if audited financial statements become available.

If the City changes its fiscal year, it will notify the MSRB 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.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to documents (i) available to the public on the MSRB's internet web site or (ii) filed with the SEC. All filings shall be made electronically, in the format specified by the MSRB.

(b) The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner (not in excess of ten (10) days after the occurrence of the event), of any of the following events with respect to the Certificates:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers or their failure to perform;
 - (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
- (vii) Modifications to rights of holders of the Certificates, if material;
- (viii) Certificate calls, if material, and tender offers;
- (ix) Defeasances;
 - (x) Release, substitution, or sale of property securing repayment of the Certificates, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the City;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (xiv) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with this Section by the time required by such Section.

All documents provided to the MSRB shall be accompanied by identifying information, as prescribed by the MSRB.

(c) 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 the notice required by this Section of any Certificate calls and defeasance that cause the City to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Registered Owners 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 REGISTERED OWNER 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 constitute a breach of or default under the Ordinance for purposes of any other provision of this Ordinance.

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

(d) The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell the 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 Registered Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Registered Owners and beneficial owners of the Certificates. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the City also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in any case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule.

30. Related Matters. The Mayor, the City Manager, the City Secretary, the Finance Director, 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.

31. 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.

32. 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.

33. 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.

[Signature page follows]

PASSED AND APPROVED on the 25th day of February, 2019.

Mayor
City of Wharton, Texas

ATTEST:

City Secretary
City of Wharton, Texas

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

The tenth item on the agenda was to review and consider the Wharton Police Department Annual Contact Report 2018. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 15, 2019, to him from Police Chief Terry D. Lynch submitting the City of Wharton 2018 Racial Profiling Report in accordance with Senate Bill 1074. Chief Lynch stated that no complaints were received regarding racial profiling. He stated that the traffic contacts that resulted in a citation or an arrest by race or ethnicity were:

Caucasian/White	1724
Hispanic	1626
Black	1259
Asian	65
Alaska Native/American Indian	23

After some discussion, Councilmember Russell Machann moved to approve the Wharton Police Department Annual Contact Report for 2018. Councilmember Terry Freese seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council approving a VOCA Grant-Victim's Assistance Officer for the Wharton Police Department-80/20 match for two (2) years and authorizing the Mayor of the City of Wharton to execute all documents related to said grant. City Manager Andres Garza, Jr. presented a memorandum from Chief Terry Lynch to him regarding the VOCA Grant-Victim's Assistance Officer for the Wharton Police Department. City Manager Garza stated the City had applied for the Victim's Assistance Officer position through the H-GAC Governor's VA Grant Program and was approved the previous year for the position and were currently operational, having appointed Officer Melissa Huggins in that position.

Police Chief Terry David Lynch stated the grant term was for year three (3) and four (4). After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2019-19, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-19**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A VOCA GRANT- VICTIM'S ASSISTANCE OFFICER FOR THE WHARTON POLICE DEPARTMENT- 80/20 MATCH FOR TWO (2) YEARS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID GRANT.

WHEREAS, The City of Wharton finds it in the best interest of the citizens of the City of Wharton, that the Victim Assistance Officer be operated for the FY2020-2021 year; and,

WHEREAS, The Wharton City Council agrees to provide applicable matching funds for the said project as required by the Victims of Crime Act Formula Grant Program Grant Application; and,

WHEREAS, The Wharton City Council agrees that in the event of loss or misuse of the Office of the Governor funds, the Wharton City Council assures that the funds will be returned to the Office of the Governor in full; and,

WHEREAS, The Wharton City Council designates Mayor Tim Barker as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

Section I. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute, on behalf of the City of Wharton, all documents related to said grant.

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

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

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Al Bryant seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Developer-Customer Utilities, Storm Drainage, And Street Construction Services Agreement between the City of Wharton and BSR Properties V, LLC. at the property known as the La Delle Ridge Subdivision; 8.198 Ac. Tract, Randal Jones 1/2 League, Abstract 36 and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza stated that during the regular May 14, 2018 Wharton City Council meeting, the City Council approved the replat of the La Delle Ridge Subdivision; 8.198 Ac. Tract, Randal Jones 1/2 League, Abstract 36 and the property was replatted for development of patio homesites. City Manager Garza presented a copy of the proposed Developer-Customer Utilities, Storm Drainage, And Street Construction Services Agreement that was required between the City and BSR Properties V, LLC. Community Development Director Gwyn Teves stated the agreement allowed for the developer to engage the services of his own engineer and contractor to conduct the work. After some discussion, Councilmember Terry Freese moved to approve City of Wharton Resolution No. 2019-20, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-20**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A DEVELOPER-CUSTOMER UTILITIES, STORM DRAINAGE, AND STREET CONSTRUCTION SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND BSR PROPERTIES V, LLC. AT THE PROPERTY KNOWN AS THE LA DELLE RIDGE SUBDIVISION; 8.198 AC. TRACT, RANDAL JONES 1/2 LEAGUE, ABSTRACT 36 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, The City of Wharton and BSR Properties V, LLC. wishes to enter into a Developer-Customer Utilities, Storm Drainage, And Street Construction Services Agreement for the real estate property known as the La Delle Ridge Subdivision; 8.198 Ac. Tract, Randal Jones 1/2 League, Abstract 36; and

WHEREAS, The Wharton City Council wishes to approve the City of Wharton Developer-Customer Utilities, Storm Drainage, And Street Construction Services Agreement; and

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

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

Section I. That the Wharton City Council hereby approves the City of Wharton Developer-Customer Utilities, Storm Drainage, And Street Construction Services Agreement between the City of Wharton and BSR Properties V, LLC.

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

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

PASSED, APPROVED, and ADOPTED this 25th day of February 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Professional Engineering Services Agreement with Jones & Carter for the TPDES Permit Renewal Applications for Wastewater Treatment Plant No. 1 and Wastewater Treatment Plant No. 2 and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. presented a copy of a proposal for professional engineering services from Jones & Carter Engineering in connection with the Texas Pollutant Discharge Elimination System (TPDES) Wastewater Treatment Plant Permit Renewal Applications for the City of Wharton Wastewater Treatment Plant No. 1 and Wastewater Treatment Plant No. 2. Interim Public Works Director Robert Ewart stated the City of Wharton's permits on the Treatment Plants would expire on December 1, 2019 and Jones & Carter would complete the TPDS permit application forms and handle any permit coordination on behalf of the City. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2019-21, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-21**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH JONES & CARTER FOR THE TPDES PERMIT RENEWAL APPLICATIONS FOR WASTEWATER TREATMENT PLANT NO. 1 AND WASTEWATER TREATMENT PLANT NO. 2 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, The Wharton City Council wishes to engage the services of Jones & Carter to provide professional engineering services for the TPDES Permit Renewal Applications for Wastewater Treatment Plant No. 1 and Wastewater Treatment Plant No. 2; and,

WHEREAS, Jones & Carter wishes to provide said services for the TPDES Permit Renewal Applications for Wastewater Treatment Plant No. 1 and Wastewater Treatment Plant No. 2; and,

WHEREAS, The City of Wharton and Jones & Carter wishes to be bound by the conditions of said Professional Engineering Services 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. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a Professional Engineering Services Agreement with Jones & Carter for the TPDES Permit Renewal Applications for Wastewater Treatment Plant No. 1 and Wastewater Treatment Plant No. 2.

Section II. The City of Wharton and Jones & Carter are hereby bound by the conditions as set forth in the agreement.

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

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

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The fourteenth item on the agenda was to review and consider BEFCO Engineering:

A. **Resolution:** A resolution of the Wharton City Council approving an Engineering Services Agreement between the City of Wharton and BEFCO Engineering for the 2019 Street Improvement Project and authoring the Mayor of the City of Wharton to execute all documents related to said project.

B. **Resolution:** A resolution of the Wharton City Council approving an Engineering Services Agreement between the City of Wharton and BEFCO Engineering for the FEMA Street Improvement Project and authorizing the Mayor of the City of Wharton to execute all documents related to said project.

City Manager Andres Garza, Jr. presented an Engineering Services Agreement between the City of Wharton and BEFCO Engineering for the 2019 Street Improvement Project and an Engineering Services Agreement between the City of Wharton and BEFCO Engineering for the FEMA Street Improvement Project. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2019-22 and City of Wharton Resolution No. 2019-23, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-22**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND BEFCO ENGINEERING FOR THE 2019 STREET IMPROVEMENT PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PROJECT.

WHEREAS, The Wharton City Council wishes to engage the services of BEFCO Engineering to provide professional engineering services in connection with said project; and,

WHEREAS, BEFCO Engineering wishes to provide said services for the 2019 Street Improvement Project; and,

WHEREAS, The City of Wharton and BEFCO Engineering wishes to be bound by the conditions of said professional engineering services 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. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a professional engineering services agreement with BEFCO Engineering for the 2019 Street Improvement Project.

Section II. The City of Wharton and BEFCO Engineering are hereby bound by the conditions as set forth in the agreement.

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

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

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2019-23**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND BEFCO ENGINEERING FOR THE FEMA STREET IMPROVEMENT PROJECT IM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PROJECT.

WHEREAS, The Wharton City Council wishes to engage the services of BEFCO Engineering to provide professional engineering services in connection with said project; and,

WHEREAS, BEFCO Engineering wishes to provide said services for the FEMA Street Improvement Project; and,

WHEREAS, The City of Wharton and BEFCO Engineering wishes to be bound by the conditions of said professional engineering services 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. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a professional engineering services agreement with BEFCO Engineering for the FEMA Street Improvement Project.

Section II. The City of Wharton and BEFCO Engineering are hereby bound by the conditions as set forth in the agreement.

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

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

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The fifteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a contract for the Belle Street Improvement Project and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. presented a proposal from Central Texas Concrete and Asphalt to complete the street repairs on Belle St. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2019-24, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-24**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR THE BELLE STREET IMPROVEMENT PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

- WHEREAS,** Proposals were received for the Belle Street Improvement Project; and,
- WHEREAS,** Central Texas Concrete and Asphalt was deemed the best lowest qualified bidder in the amount of \$13,136.00; and,
- WHEREAS,** The Wharton City Council wishes to award a contract to Central Texas Concrete and Asphalt for the Belle Street Improvement Project in the amount of \$13,136.00; and,
- WHEREAS,** The City of Wharton and Central Texas Concrete and Asphalt wish to be bound by the conditions as set forth in the agreement; and,
- WHEREAS,** The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the agreement.

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

- Section I.** The Wharton City Council hereby authorizes the Mayor to execute a contract for the Belle Street Improvement Project to Central Texas Concrete and Asphalt in the amount of \$13,136.00.
- Section II.** The City of Wharton and Central Texas Concrete and Asphalt are hereby bound by the conditions as set forth in the agreement.
- Section III.** That this resolution shall become effective immediately upon its passage.

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

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The sixteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving the City of Wharton's participation in an interlocal cooperation contract for the Failure to Appear Program for the Wharton Municipal Court and to authorize the Mayor of the City of Wharton to execute an interlocal cooperation contract with the Texas Department of Public Safety to implement said program. City Manager Andres Garza, Jr. presented information regarding the Interlocal Cooperation Contract for the Failure to Appear Program through the Texas Department of Public Safety. City Secretary Paula Favors stated the purpose was to improve court collection and compliance and to comply with mandated State Collection Improvement Program requirements and the program also required that an Interlocal Cooperation Contract between the City and the State be approved. Mrs. Favors said the program would allow if a person fails to appear in court for the prosecution of an offense or if the person fails to pay or satisfy a judgement ordering the payment of a fine and cost in the manner ordered by the court a denial of the renewal of the person's driver license. She said the person would have to make payment to the court to satisfy the judgement against them before a release would be sent to the state to allow for the renewal of their driver license. Mrs. Favors said a statutory administration fee would be collected from the defendant in the amount of \$30.00, \$20.00 would be sent to the Comptroller per Texas Transportation Code 706.006, \$6.00 would be paid to the vendor and \$4.00 would be deposited in the City's general fund. She said the City Council Finance Committee met Monday, February 25, 2019 and where recommending the City Council consider approving the agreement. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2019-25, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-25**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE CITY OF WHARTON'S PARTICIPATION IN AN INTERLOCAL COOPERATION CONTRACT FOR THE FAILURE TO APPEAR PROGRAM FOR THE WHARTON MUNICIPAL COURT AND TO AUTHORIZE THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AN INTERLOCAL COOPERATION CONTRACT WITH THE TEXAS DEPARTMENT OF PUBLIC SAFETY TO IMPLEMENT SAID PROGRAM.

WHEREAS, The City of Wharton can participate in the Failure to Appear Program; and,

WHEREAS, The Wharton City Council wishes to participate in said program and to enter into an Interlocal Cooperation Contract with the Texas Department of Public Safety to implement the program; 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 that:

Section I. The City of Wharton hereby the City of Wharton’s participation in the Failure to Appear Program.

Section II. The Mayor of the City of Wharton is hereby authorized to execute an Interlocal Cooperation Contract with the Texas Department of Public Safety to implement the program

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

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

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The seventeenth item on the agenda was to review and consider Linwood/Crestmont Curb Repair Project:

A. **Resolution:** A resolution of the Wharton City Council revising Change Order No. 1 with HTI Construction for the Linwood/Crestmont Curb Repair Project.

City Manager Andres Garza, Jr. stated that on January 28, 2019 the City Council approved Change Order No. 1 with HTI Construction for the Linwood/Crestmont Curb Repair Project to include additional curb and gutter work on Elm Street. City Manager Garza said HTI Construction was scheduled to start another project and was unable to accept the additional curb and gutter repairs. City Manager Garza presented the revised Change Order with HTI Construction for the Linwood/Crestmont Curb Repair Project. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2019-26, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-26**

A RESOLUTION OF THE WHARTON CITY COUNCIL REVISING CHANGE ORDER NO. 1 WITH HTI CONSTRUCTION FOR THE LINWOOD/CRESTMONT CURB REPAIR PROJECT.

WHEREAS, The Wharton City Council wishes to revise Change Order No. 1 with HTI Construction for the Linwood/Crestmont Curb Repair Project; and,

WHEREAS, HTI Construction is scheduled to start another project and is unable to accept the additional curb and gutter repairs; and,

WHEREAS, The Wharton City Council wishes to authorize the revision to Change Order No. 1 with HTI Construction for the Linwood/Crestmont Curb Repair Project.

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

Section I. The Wharton City Council hereby authorizes to revise Change Order No. 1 with HTI Construction for the Linwood/Crestmont Curb Repair Project.

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

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

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eighteenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.087 of the Local 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:** Industrial District No. 1 Contract.

Mayor Barker moved the meeting into closed session at 8:22 p.m.

The nineteenth item on the agenda was to return to open meeting: Action on items in Executive Session:

Mayor Tim Barker returned to open session at 8:39 p.m.

A. **Review & Consider:** Industrial District No. 1 Contract.

After some discussion, no action was taken.

The twentieth item on the agenda was to review and consider Cloud Street Water Well Repair Project: Change Order No. 1 – Weisinger Incorporated.

- A. Change Order No. 1 – Weisinger Incorporated.
- B. Pay Request No. 1 from Weisinger Incorporated for the Cloud Street Water Well Repair Project.

City Manager Andres Garza, Jr. presented Change Order No. 1 from Weisinger Incorporated for the Cloud St. Water Well Repair Project and Pay Request No. 1 from Weisinger Incorporated for the Cloud Street Water Well Repair Project. Interim Public Works Director Robert Ewart stated the change was due to thirty hours of jetting. After some discussion, Councilmember Al Bryant moved to approve Change Order No. 1 – Weisinger Incorporated and Pay Request No. 1 from Weisinger Incorporated for the Cloud Street Water Well Repair Project. Councilmember Terry Freese seconded the motion. All voted in favor.

The twenty-first item on the agenda was to review and consider an update of City of Wharton Grant Programs. Community Development Coordinator Gwyn Teves presented an update on the City of Wharton Grant Programs. After some discussion, no action was taken.

The twenty-second item on the agenda was the update of City of Wharton on-going Projects. City Manager Andres Garza, Jr. presented copy of his memorandum dated February 20, 2019 providing an update on the City of Wharton current projects as of January 31, 2019.

FLOOD REDUCTION (LEVEE) PROJECT

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is 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.cityofwharton.com/information-a-notices/lcrb-feasibility-study>. The City Staff is working with the Fort Worth District Office regarding the Project

Participation Agreement (PPA). The USACE has developed the guidance on the process to move this project forward.

DRAINAGE:

1. Stavena Addition Drainage Project.

The design and construction plans are complete. The challenge on this project is to find locations to place approximately 35,000 cubic yards of soil. The ideal disposal site should be close to the project site to reduce the cost of construction.

2. Ahldag Ditch Improvement.

The project was approved by the City Council. Public Works Director is currently working out the details.

3. On-going Drainage and Maintenance Program.

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

4. Pecan Acres (Mahann, Kinkaid, Delmas) Drainage Project.

The Public Works Department is working with JTM, the contractor, installation of the drainage pipes was completed. The junction boxes have been installed by the contractor, the project has been completed by the contractor. The City Public Works Department will be regrading ditches to improve the drainage in the area.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

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

STREET IMPROVEMENTS

1. FM 1301 Extension and Overpass Project Progress Report.

IDC Inc. has submitted to TxDOT Yoakum District Office all required plans for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward. The City is awaiting TxDOT announcement of the project to be funded in Wharton County.

2. I-69 Project.

The City submitted the comments as approved by the City Council to TxDOT.

3. NanYa Exit Ramp Project.

TxDOT has been coordinating with NanYa on the exit design.

4. 2019 City Street Improvement Project.

Wharton City Council Regular Meeting
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The City Staff has begun the planning process for the 2019 Street Improvement Project. The City Staff will be working with the City Council Public Works Committee to develop the program and present it to the City Council for consideration by early spring.

After some discussion, no action was taken.

The twenty-third item on the agenda was to review and consider appointments and Resignations to the City of Wharton Boards, Commissions, and Committees:

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Plumbing and Mechanical Board.

After some discussion, no action was taken.

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

- A. Public Works Committee meeting held February 5, 2019.
- B. Mayor's Committee on People with Disabilities meeting held February 13, 2019.
- C. Beautification Commission meeting held February 13, 2019.

After some discussion, no action was taken.

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

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

After some discussion, no action was taken.

The twenty-sixth item on the agenda was adjournment. There being no further discussion, Councilmember Don Mueller moved to adjourn. Councilmember Al Bryant seconded the motion. All voted in favor.

The meeting adjourned at 8:56 p.m.

Wharton City Council Regular Meeting
February 25, 2019

CITY OF WHARTON, TEXAS

By: _____

Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary