

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
March 14, 2011**

Mayor Domingo Montalvo, Jr. declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Don Mueller led the opening devotion and Mayor Domingo Montalvo, Jr. led the pledge of allegiance.

Councilmember's present were: Mayor Domingo Montalvo, Jr., Councilmembers Terry David Lynch, Don Mueller, and Bryce D. Kocian.

Councilmember absent was: Jeff Gubbels.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anel, City Secretary Paula Favors, Assistant to City Manager Jackie Jansky, and Assistant City Attorney Amy Rod.

Visitors present were: John Mercurief II with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, P.E. with Jones & Carter, Inc., Jim Cockrell, Lloyd Shoppa, Faisal Shah, David Samuelson, and Lewis Fortenberry.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember Don Mueller moved to excuse Councilmember Jeff Gubbels. Councilmember Terry David Lynch seconded the motion.

The third item on the agenda was Public Comments. Dr. David Samuelson addressed the City Council and thanked the City for working with East Wharton County Habitat for Humanity. Dr. Samuelson added there have been four houses built in Wharton through Habitat for Humanity. He invited the City Council to attend the ribbon cutting ceremony for Habitat for Humanity's new warehouse. Mr. Lloyd Shoppa addressed the City Council with his concerns on the FM 102 Relocation and Overpass Project. Mr. Shoppa made the request for the City Council to hold public hearings to hear the concerns of citizens. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember Terry David Lynch complimented the East Wharton County Crime Stoppers for re-activating the organization. Councilmember Lynch added that the first meeting was held and the board members were elected. City Manager Andres Garza, Jr. addressed the City Council and asked to keep Public Work's Director Carter Miska, P.E. in their prayers, due to the fact that, his wife was very ill. No action was taken.

City of Wharton  
Regular City Council Meeting  
March 14, 2011

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held February 14, 2011 and February 28, 2011. After some discussion, Councilmember Bryce D. Kocian moved to approve the minutes from the regular meetings held February 14, 2011 and February 28, 2011 as presented. Councilmember Donald Mueller seconded the motion. All voted in favor.

The sixth item on the agenda item was to review and consider a request by Mr. Lonnie Lindberg, Jr., owner of Street Scene, Inc., 2011 and 2015 Richmond Road, for City Council consideration to approve a variance to the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising, Section 66-22 Corporate Signs and Section 66-29 Prohibited Signs for the placement of advertising flags on his property. Mr. Lonnie Lindberg, Jr., owner of Street Scene, Inc., 2011 and 2015 Richmond Road, presented a request for City Council consideration for the approval of a variance to the to the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising, Section 66-22 Corporate Signs and Section 66-29 Prohibited Signs for the placement of advertising flags on his property. Mr. Lindberg stated the signs would be removed each night at the close of the business day. After some discussion, Councilmember Bryce D. Kocian moved to approve a variance to the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising, Section 66-22 Corporate Signs and Section 66-29 Prohibited Signs for the place of advertising flags on the Street Scene, Inc., property located at 2011 and 2015 Richmond Road. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider a request by Mr. Paul Kearney, Juneteenth Celebration Committee Member, for City Council consideration for the approval of the closure of Burleson Street between Fulton and Polk Streets and Houston and Fulton Streets at the intersection with Elm Street between the hours of 6:00 p.m. – 10:00 p.m. for the James Simmons, Jr. 2<sup>nd</sup> Annual Juneteenth Festival. City Manager Andres Garza, Jr. presented a copy of the letter dated March 8, 2011 from Mr. Paul Kearney, Juneteenth Celebration Committee Member, requesting City Council consideration for the approval of the closure of Burleson Street between Fulton and Polk Streets and Houston and Fulton Streets at the intersection with Elm Street between the hours of 6:00 p.m. – 10:00 p.m. for the James Simmons, Jr. 2<sup>nd</sup> Annual Juneteenth Festival. He said that Burleson Street was a state highway (Highway 60), and that approval would be required from the Texas Department of Transportation (TxDOT). He stated that Mr. Kearney had contacted the State regarding his request and he was informed that he would need to submit a traffic control plan much like the one the City had submitted when repairs were conducted on FM 102. City Manager Garza also presented a copy of the email dated March 10, 2011 from Mr. Mark Wooldridge, P.E., TxDOT Area Engineer requesting City of Wharton concurrence and provision of a detailed traffic control plan. City Manager Garza said that Mr. Kearney made the request that the City develop and submit the traffic plan, place the necessary detours and closures, and monitor the closed street to ensure all barricades and signage were in place as detailed in the proposed plan. He also said that Mr. Kearney also requested approval for portions of Houston and Fulton Streets at their intersections with Elm Street be closed. After some discussion, Councilmember Don Mueller moved to table the request by Mr. Paul Kearney, Juneteenth Celebration Committee Member, for City Council consideration for the approval of the closure of Burleson Street between Fulton and Polk Streets and Houston and Fulton Streets at the intersection with Elm Street between the hours of 6:00 p.m. – 10:00 p.m. for the James Simmons, Jr. 2<sup>nd</sup> Annual Juneteenth Festival. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a request by Faisal A. Shah PLLC on behalf of Mr. Sultan Mahmood, owner of Sarim, Inc. for Tax Abatement.

**A. Resolution:** A resolution administratively approving an application for tax abatement filed by Faisal A. Shah PLLC on behalf of Mr. Sultan Mahmood, owner of Sarim, Inc. dated the 16<sup>th</sup> day of February 2011.

City Manager Andres Garza, Jr. presented to the City Council a copy of his memorandum dated February 23, 2011 to the City Council providing his recommendation that affirmative action be taken by the City Council by considering to administratively approve the tax abatement application. He said that once the application has been approved, then a public hearing would be required regarding the creation of a reinvestment zone, and the adoption of an ordinance creating the reinvestment zone and the adoption of an ordinance approving the tax abatement agreement would be required. After some discussion Councilmember Bryce D. Kocian moved to approve a resolution administratively approving an application for tax abatement filed by Faisal A. Shah PLLC on behalf of Mr. Sultan Mahmood, owner of Sarim, Inc. dated the 16<sup>th</sup> day of February 2011. The City of Wharton Resolution 2011-10 reads as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011 - 10**

**A RESOLUTION ADMINISTRATIVELY APPROVING AN APPLICATION FOR  
TAX ABATEMENT FILED BY SARIM, INC. DATED THE 16<sup>TH</sup> DAY OF  
FEBRUARY 2011.**

**WHEREAS,** heretofore previously, the City Council of the City of Wharton did establish and adopt certain criteria and guidelines for review and administrative approval of applications for tax abatements; and

**WHEREAS,** the City Manager of the City of Wharton has reviewed the application heretofore previously filed and has approved the same by memorandum dated the 23<sup>rd</sup> day of February 2011 a copy of which is attached hereto and marked Exhibit "A".

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

**Section I.** The City Council of the City of Wharton receives and makes a part of the record the recommendation of the City Manager, dated the 23<sup>rd</sup> day of February 2011, recommending administrative approval in accordance with the Guidelines and Criteria for Granting Tax Abatements as adopted by Resolution No. 2010-08 on the 8<sup>th</sup> day of March 2010 and directs that said recommendation be filed and maintained among the official papers of the City relating to the proposed tax abatement.

**Section II.** After review to the extent deemed necessary by the City Council of the City of Wharton, the City Council by this Resolution does administratively approve the application for tax abatement heretofore previously filed by Sarim, Inc. on the 16<sup>th</sup> day of February 2011,

City of Wharton  
Regular City Council Meeting  
March 14, 2011

and directs, in accordance with the requirements of law, and the heretofore named Guidelines and Criteria for Granting Tax Abatements, that an appropriate agreement be prepared and submitted to the City Council of Wharton, Texas for final consideration.

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of March 2011.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**

City Secretary

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

**B. Public Hearing:** To obtain input from interested persons as to whether or not the City of Wharton Reinvestment Zone No. 11-01 should be created.

Mayor Domingo Montalvo, Jr. opened the Public Hearing at 7:20 p.m. No comments were made. Mayor Montalvo closed the Public Hearing at 7:21 p.m.

**C. Ordinance:** An ordinance designating certain property as herein legally described, including certain lots and blocks as therein contained, a Reinvestment Zone and providing that said Reinvestment Zone shall hereinafter be referred to as City of Wharton Reinvestment Zone No. 11-01, said property being generally known as a 3.563 acre tract of land being all of Lot 2 and Lot 3 of Outlar's Caney Valley Acres, a subdivision out of the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas, and making other findings and conclusions as required by law.

City Manager Andres Garza, Jr. presented a copy of a draft ordinance designating certain property as herein legally described, including certain lots and blocks as therein contained, a Reinvestment Zone and providing that said Reinvestment Zone shall hereinafter be referred to as City of Wharton Reinvestment Zone No. 11-01, said property being generally known as a 3.563 acre tract of land being all of Lot 2 and Lot 3 of Outlar's Caney Valley Acres, a subdivision out of the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas, and making other findings and conclusions as required by law to the City Council.

He stated that the proposed Denny's would be located on only Lot 2; however, the reinvestment zone also included Lot 3, which belonged to the Outlar Estate. He said that the reinvestment zone would be good for five (5) years and the Lot 3 was included in case future development occurred on that lot. After some discussion, Councilmember Bryce D. Kocian moved to approve the ordinance designating certain property as herein legally described, including certain lots and blocks as therein contained, a Reinvestment Zone and providing that said Reinvestment Zone shall hereinafter be referred to as City of Wharton Reinvestment Zone No. 11-01, said property being generally known as a 3.563 acre tract of land being all of Lot 2 and Lot 3 of Outlar's Caney Valley Acres, a subdivision out of the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas, and making other findings and conclusions as required by law. City of Wharton Ordinance 2011-05 which reads as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2011-05**

**AN ORDINANCE DESIGNATING CERTAIN PROPERTY AS HEREIN LEGALLY DESCRIBED, INCLUDING CERTAIN LOTS AND BLOCKS AS THEREIN CONTAINED, A REINVESTMENT ZONE AND PROVIDING THAT SAID REINVESTMENT ZONE SHALL HEREINAFTER BE REFERRED TO AS CITY OF WHARTON REINVESTMENT ZONE NO. 11-01 SAID PROPERTY BEING GENERALLY KNOWN AS A 3.563 ACRE TRACT OF LAND BEING ALL OF LOT 2 AND LOT 3 OF OUTLAR'S CANEY VALLEY ACRES, A SUBDIVISION OUT OF THE ALEXANDER JACKSON TIMBER LEAGUE, ABSTRACT NO. 34, WHARTON COUNTY, TEXAS AND MAKING OTHER FINDINGS AND CONCLUSIONS AS REQUIRED BY LAW.**

**WHEREAS**, heretofore previously, a notice having been given to the presiding officer of all taxing entities levying and collecting taxes within the area encompassed in the property to be included in the reinvestment zone and said notice having stated the date and time of the required public hearing to create a reinvestment zone in a form as attached hereto and marked Exhibit "A"; and

**WHEREAS**, notice having been duly published in the official newspaper of the City of Wharton at least seven days prior to the start of the public hearing as to the date and time of said public hearing and intent to create the proposed reinvestment zone; and

**WHEREAS**, a public hearing was duly convened in accordance with the requirements of law by the Honorable Mayor of the City of Wharton during the meeting of the City Council of Wharton occurring on the 14<sup>th</sup> day of March 2011 and all persons appearing there were given an opportunity to speak and all written documentation and/or exhibits were made available to the City Council of the City of Wharton; and

**WHEREAS**, the City Council of the City of Wharton finds and determines that the property as hereinafter described should be included in a reinvestment zone.

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

**Section I.** The City Council of the City of Wharton, for and on behalf of the City of Wharton makes the following findings of fact in accordance with a proposal to create a new reinvestment zone in the City of Wharton, being hereafter known as the City of Wharton Reinvestment Zone No. 11-01, and in this regard, the City Council of the City of Wharton finds and determines:

- a. That the certain tracts and parcels of property as herein legally described are properties within the city limits of the City of Wharton and are not now included in the boundaries of any reinvestment zone.
- b. That notice of a public hearing as required under the provisions of Chapter 312 of the Texas Tax Code was duly given to the presiding officer of all taxing entities levying taxes within the property to be included in the reinvestment zone; and
- c. That notice was duly published in the official newspaper of the City of Wharton to-wit, The Wharton Journal-Spectator, Said date of publication was the 26<sup>th</sup> day of February 2011, said publication having occurred at least seven days prior to the date and time of the scheduled public hearing.

**Section II.** The City Council of the City of Wharton, further finds that Sarim, Inc. has filed an application for a tax abatement for certain improvements to be constructed upon properties, including investment in personal property, situated within the reinvestment zone, and the City Council of the City of Wharton finds and determines that the improvements sought are feasible and would be of benefit to the reinvestment zone after the expiration of a tax abatement agreement which is contemplated to be entered into by and between the City of Wharton and Sarim, Inc.

**Section III.** In accordance with the requirements of law, the City Council of the City of Wharton finds and determines that one or more statutorily defined criteria exists for the designation of the property as herein described which necessitates the creation of said zone and, in this regard, the City Council of the City of Wharton finds and determines that the development of property within the zone is reasonably likely to contribute to the retention or expansion of primary

City of Wharton  
Regular City Council Meeting  
March 14, 2011

employment or attract major investment in the zone and surrounding area. In addition, the City Council finds and determines that one or more other and additional criteria for the creation of the reinvestment zone as set out under Section 312.202 of the Texas Tax Code are applicable or may be applicable to the property as herein described.

**Section IV.** In this regard, based upon the above and foregoing findings of fact and conclusions, the City Council of the City of Wharton does hereby create City of Wharton Reinvestment Zone No. 11-01 with its area to include and contain the property as legally described in Exhibit "A" attached heretofore.

**Passed, Approved and Adopted** this 14<sup>th</sup> day of March 2011.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

**PAULA FAVORS**  
City Secretary

**BY:** \_\_\_\_\_

**Exhibit "A"**

**DESCRIPTION OF A 3.563 ACRE TRACT OF LAND BEING ALL OF LOT 2 AND LOT 3 OF OUTLAR'S CANEY VALLEY ACRES, A SUBDIVISION OUT OF THE ALEXANDER JACKSON TIMBER LEAGUE, ABSTRACT NO. 34, WHARTON**

**COUNTY, TEXAS AS PER PLAT RECORDED IN SLIDE NO. 75-A, OF THE PLAT CABINET RECORDS OF WHARTON COUNTY, TEXAS FOR WHICH REFERENCE IS MADE AND THE SAID 3.563 ACRE TRACT BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a 1/2 inch iron rod found in the Northeast line of Relocated FM 102 for the Southeast corner of said Lot 3, being also the common Southwest corner of a residue tract described in a deed dated September 17, 1980 from Isiah Coleman, et al to Mamie Coleman, recorded in Volume 547, Page 597, Wharton County Deed Records;

**THENCE** North 71° 51' 29" West with the Northeast line of said Relocated FM 102 a distance of 295.35 feet to a concrete right of way marker found for corner, and continuing North 64° 58' 27" West a distance of 213.07 feet with above said line a distance of 213.07 feet to a concrete right of way marker found for the Southwest corner of said Lot 2, being also a common cut back corner in the Southeast line of U.S. Highway No. 59;

**THENCE** North 24° 19' 09" West continuing with said cut back line, being a common Southwest line of said Lot 2 a distance of 149.11 feet to a concrete right of way marker found for a Westerly corner of said Lot 2, being also in the Southeast line of said U.S. Highway No. 59;

**THENCE** North 17° 13' 04" East with the Southeast line of said U.S. Highway No. 59 a distance of 85.41 feet to a 5/8 inch iron rod set w/cap for the Southwest corner of Lot 1 of said Outlar's Caney Valley Acres, being that same property described in a deed dated March 17, 1987 from L.B. Outlar, Jr., et ux to NOA Foods, Inc., recorded in Volume 727, Page 635, Wharton County Deed Records, from said corner a 1/2 inch iron rod found for the Northwest corner of said Lot 1 bears North 17° 13' 04" East a distance of 157.73 feet;

**THENCE** South 64° 00' 13" East with the Northerly line of said Lot 2, being the common Southerly line of said Lot 1 a distance of 185.63 feet to a 1/2 inch iron rod found for the Southeast corner of said Lot 12, being also the common Northeast corner of said Lot 2;

**THENCE** North 17° 20' 17" East with the Easterly line of said Lot 1 a distance of 147.61 feet to a Mag Nail set with stamped washer in the Southwest line of Regional Medical Drive for the Northeast corner of said Lot 1, being also the common Northwest corner of said Lot 3 and from said corner a 1/2 inch iron rod found for the Northwest corner of Lot 1 bears North 60° 58' 03" West a distance of 187.74 feet;

**THENCE** South 60° 58' 03" East with the Southwest line of said Regional Medical Drive, being the common Northeast line of Lot 3 a distance of 431.13 feet to a 1/2 inch iron rod found for the Northeast corner of said Lot 3, being also the common Northwest corner of said Coleman residue tract;

**THENCE** South 17° 19' 26" West with the Easterly line of Lot 3, being the common Westerly line of said Coleman residue tract a distance of 261.75 feet to the **POINT OF BEGINNING**, containing 3.563 acres of land, more or less.

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



- D. Ordinance:** An ordinance approving and authorizing the Mayor of the City of Wharton to sign and execute for and on behalf of the City of Wharton a tax abatement agreement with Sarim, Inc. in a form as attached hereto and marked Exhibit "1" and making certain findings of fact in accordance with the requirements of law.

City Manager Andres Garza, Jr. presented a copy of the letter dated February 17, 2011 from Ms. Karen Heintschel, Executive Assistant for the Wharton Economic Development Corporation (WEDC) providing a copy of the letter dated February 16, 2011 from Mr. Faisal A. Shah, on behalf of Mr. Sultan Mahmood owner of Sarim, Inc., who wished to construct a Denny's Restaurant on Lot 2 of Outlar's Caney Valley Acres in the City of Wharton. City Manager Garza also presented a copy of the letter dated January 14, 2011 to Mr. David Schroeder, Executive Director of WEDC from Mr. Shah providing Sarim, Inc.'s request for tax abatement, a sales tax rebate agreement, and a grant from WEDC and a copy of the application for tax abatement and sales tax rebate. City Manager Garza stated that on February 23, 2011, the City Council Finance Committee reviewed the request for Tax Abatement submitted by Mr. Mahmood. He said the Finance Committee voted to recommend the City Council consider approving the request for tax abatement for five (5) years at 100% for improvements and three (3) years at 100% for equipment and not grant a sales tax rebate. City Manager Garza informed the City Council that Mr. Sultan Mahmood, owner of Sarim, Inc., agreed that at least fifty (50) jobs would be created and if not the City would review the tax abatement on a yearly basis. After some discussion, Councilmember Bryce D. Kocian moved to approve an ordinance to authorize the Mayor of the City of Wharton to sign and execute for and on behalf of the City of Wharton a tax abatement agreement with Sarim, Inc. City of Wharton Ordinance 2011-06, which reads as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2011-06**

**AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO SIGN AND EXECUTE FOR AND ON BEHALF OF THE CITY OF WHARTON A TAX ABATEMENT AGREEMENT WITH SARIM, INC. IN A FORM AS ATTACHED HERETO AND MARKED EXHIBIT "1" AND MAKING CERTAIN FINDINGS OF FACT IN ACCORDANCE WITH THE REQUIREMENTS OF LAW.**

**WHEREAS,** heretofore previously, the City Council of the City of Wharton by Ordinance No. 2011-05 did create a reinvestment zone upon a certain tract and parcel of property as described in said ordinance on file; and

**WHEREAS,** an agreement has been reached by and between the City of Wharton and the applicant to enter into a tax abatement agreement; and

**WHEREAS,** said agreement provides for tax abatement in accordance with certain conditions, restrictions and limitations as therein set out; and

**WHEREAS,** the City Council of the City of Wharton finds and determines that the tax abatement agreement, as attached hereto and marked Exhibit "1" is in accordance with the requirements of law and, therefore, should be approved.

City of Wharton  
Regular City Council Meeting  
March 14, 2011

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

**Section I.** The Mayor, for and on behalf of the City of Wharton, is authorized to sign and execute a tax abatement agreement with Sarim, Inc. for the purpose of providing tax abatement with certain conditions, limitations and restrictions as set out in said agreement and under the requirements of law as specifically set out in Chapter 312 of the Texas Tax Code.

**Passed, Approved and Adopted** this 14<sup>th</sup> day of March 2011.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

BY: \_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The ninth item on the agenda was to review and consider City Council authorization for the Mayor of the City of Wharton to submit a formal letter to The Honorable Joe Biden, Vice-President of the United States of America notifying him of the latest Federal Communications Commission's effort to erode City right-of-way maintenance and reasonable compensation authority. City Manager Andres Garza, Jr. presented a copy of the memorandum dated March 1, 2011 to the City Council and City Attorney Paul Webb regarding the email dated February 27, 2011 that he received from Attorney Clarence A. West providing a copy of the letter from TML President and Mayor Robert Cluck of Arlington, Texas, notifying Vice-President Joe Biden of the latest Federal Communication Commission (FCC) effort to erode City right-of-way maintenance and reasonable compensation authority. City Manager Garza also presented a copy of a sample letter that Mayor Cluck provided that indicated City's that may submit to Vice-President Biden providing their opposition to the FCC actions. After some discussion, Councilmember Terry David Lynch moved to approve the submission of the opposition to the FCC sample letter to Vice-President Biden informing him of the FCC's effort to erode City's Right of Way maintenance and reasonable compensation authority. Councilmember Donald Mueller seconded the motion. All voted in favor.

The tenth item discussed on the agenda was to review and consider a resolution expressing intent to finance expenditures to be incurred for the FM 102 Relocation and Overpass Project and the

City of Wharton  
Regular City Council Meeting  
March 14, 2011

Sidewalk Accessibility and Historic Streetscape Project. City Manager Andres Garza, Jr. advised that the City of Wharton was moving forward with the issuance of the bonds for the FM 102 Relocation and Overpass project and the Sidewalk Accessibility and Historic Streetscape Project. City Manager Garza advised that a resolution expressing the City's intent to finance expenditures to be incurred (reimburse itself) for the costs associated with the projects until the bonds have been issued was required. After some discussion, Councilmember Donald Mueller moved to approve City of Wharton Resolution No. 2011-11, which reads as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011-11**

**A RESOLUTION OF THE WHARTON CITY COUNCIL EXPRESSING INTENT TO FINANCE EXPENDITURES TO BE INCURRED FOR THE CITY OF WHARTON FM 102 RELOCATION AND OVERPASS PROJECT AND THE SIDEWALK ACCESSIBILITY AND HISTORIC STREETScape PROJECT.**

**WHEREAS**, the City of Wharton, Texas (the "City"), is a home-rule city of the State of Texas, authorized to issue obligations to finance its activities pursuant to the Texas Government Code and other laws of the State of Texas, the interest on which is excludable from gross income for federal income tax purposes ("tax-exempt obligations") pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"); and

**WHEREAS**, the City will make, or has made not more than 60 days prior to the date hereof, payments with respect to the engineering, acquisition, construction, reconstruction or renovation of the projects listed on Exhibit A attached hereto; and

**WHEREAS**, the City desires to reimburse itself for the costs associated with the projects listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof; and

**WHEREAS**, the City reasonably expects to issue tax-exempt obligations to reimburse itself for the costs associated with the projects listed on Exhibit A attached hereto.

**NOW, THEREFORE**, be it resolved that:

**Section 1.** The City reasonably expects to reimburse itself for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof and that are to be paid in connection with the engineering, acquisition, construction, reconstruction or renovation of the projects listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof.

**Section 2.** The City reasonably expects that the maximum reimbursement from the principal amount of tax-exempt obligations issued by the City for costs associated with the projects listed on Exhibit A attached hereto will not exceed \$4.6 million.

**Section 3.** All resolutions and parts of resolutions in conflict herewith are hereby repealed to the extent of the conflict only.

**Section 4.** If any word, phrase, clause, sentence, paragraph, section or other part of this resolution or the application thereof to any person or circumstance shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this resolution and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this resolution to any other person or circumstance shall not be affected thereby.

**Section 5.** The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this resolution was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

**PASSED AND APPROVED** this 14<sup>th</sup> day of March 2011.

**CITY OF WHARTON**

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Domingo Montalvo, Jr.  
Mayor

**ATTEST:**

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Paula Favors  
City Secretary

(SEAL)

Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The eleventh item discussed on the agenda was to review and consider a recommendation by the City Council Consultant Selection Committee for the FM 102 Relocation and Overpass Project:

- A. Acceptance of the final scoring of the professional engineering firms for the FM 102 Relocation and Overpass Project.

City Manager Andres Garza, Jr. informed the City Council that on March 3, 2011, the Consultant Selection Committee for the FM 102 Relocation and Overpass Project submitted their individual rankings of the five (5) engineering firms that were short-listed for the FM 102 Relocation and Overpass Project. He said the rankings were as follows:

IDC, Inc.	478
CivilCorp	436
Jones & Carter, Inc.	417
Halff Associates, Inc.	414
LJA Engineering, Inc.	414

City Manager Garza advised that the City Council acceptance of the final scoring of the engineering firms was recommended by the Committee Members. After some discussion, Councilmember Bryce D. Kocian moved to approve the final scoring of the engineering firms by the Consultant Selection Committee for the FM 102 Relocation and Overpass Project. Councilmember Terry David Lynch seconded the motion. All voted in favor.

B. Authorization to begin contract negotiations with IDC Inc. for professional engineering services for the FM 102 Relocation and Overpass Project.

City Manager Garza informed the City Council that the Consultant Selection Committee for the FM 102 Relocation and Overpass Project also recommended the City Council consider authorizing contract negotiations with the highest-ranking firm, which was IDC Inc., and he said that if contract negotiations failed with that firm, then contract negotiations would begin with the next highest-ranking firm and so forth until a contract has been successfully negotiated. After some discussion, Councilmember Don Mueller moved to approve authorizing contract negotiations with the highest-ranking firm, which was IDC Inc. that if contract negotiations failed with that firm, then contract negotiations would begin with the next highest-ranking firm and so forth until a contract has been successfully negotiated. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The twelfth item discussed on the agenda was to review and consider a resolution of the Wharton City Council accepting the portion of FM 102, known as Ogden Street, from the Texas Department of Transportation once the construction of the FM 102 Relocation and Overpass Project has been completed. City Manager Andres Garza, Jr. advised the City Council that he was contacted by Mr. Paul Frerich, P.E. of the Texas Department of Transportation (TxDOT) who informed him that TxDOT was seeking a resolution from the City of Wharton approving the acceptance of the old FM 102 (Ogden Street) from TxDOT once the FM 102 Relocation and Overpass Project has been completed. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2011-12, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011 - 12**

**A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING THE PORTION OF FM 102, KNOWN AS OGDEN STREET, FROM THE TEXAS DEPARTMENT OF TRANSPORTATION ONCE THE CONSTRUCTION OF THE FM 102 RELOCATION AND OVERPASS PROJECT HAS BEEN COMPLETED.**

**WHEREAS,** On January 10, 2011, the Wharton City Council approved Resolution No. 2011-04 approving the Local Transportation Project Advance Funding Agreement to a

Category 11 Project – On System for the City of Wharton FM 102 Relocation and Overpass Project; and; and

**WHEREAS,** the Texas Department of Transportation currently maintains that portion of FM 102 known as Ogden Street in the City of Wharton, Texas; and

**WHEREAS,** the Wharton City Council wishes the City of Wharton to maintain that portion of FM 102 known as Ogden Street in the City of Wharton, Texas; and

**WHEREAS,** the City of Wharton wishes to accept ownership of that portion of FM 102 known as Ogden Street once the FM 102 Relocation and Overpass Project has been completed.

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

**Section I.** The Wharton City Council hereby to accepts ownership and will maintain that portion of FM 102 known as Ogden Street once the FM 102 Relocation and Overpass Project has been completed.

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of March 2011.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The thirteen item discussed on the agenda was to review and consider the Wharton Fire Station Expansion Project.

A. Building Erection

City Manager Andres Garza, Jr. stated that Facilities Maintenance Director Bob Baker contacted four companies and received quotes for the building erection from K & P Manufacturing and Drymalla Construction Company, Inc. K & P Manufacturing quoted \$15,540 to erect the

building and Drymalla quoted \$21,480.00. After reviewing the quotes, he recommended the City Council consider awarding the contract to erect the new building to K & P Manufacturing in the amount of \$15,540.00. BLS Construction and LLF Construction did not submit a quote.

B. Slab (foundation) – K & P Manufacturing in the amount of \$7,770.00

City Manager Garza further stated that Facilities Maintenance Director Bob Baker also contacted four companies and received quotes for the slab (foundation) from K & P Manufacturing and Drymalla Construction Company, Inc. K & P quoted \$7,770.00 to pour the slab for the building and Drymalla quoted \$56,000.00. After reviewing the quotes, he recommended the City Council consider awarding the contract to pour the slab for the new building to K & P Manufacturing in the amount of \$7,770.00. BLS Construction and LLF Construction did not submit a quote.

C. Materials (steel) – Zarsky’s Lumber Company, Inc. in the amount of \$5,590.00

City Manager Andres Garza, Jr. stated that Mr. Baker contacted two companies and received quotes for the purchase of the materials (steel) from Zarsky’s Lumber Company, Inc. and CMC Construction Services. Zarsky’s quoted \$5,590.00 for the materials (steel) and CMC quoted \$5,540.00. After reviewing the quotes, he recommended the City Council award the contract to Zarsky’s Lumber Company, Inc. for the materials (steel) in the amount of \$5,590.00. Zarsky’s quote was \$60.00 higher than CMC but after consideration, Zarsky’s was a local company and access to additional materials was more convenient to obtain.

City Manager Andres Garza, Jr. stated that he concurred with Mr. Baker’s recommendation. After some discussion, Councilmember Bryce D. Kocian moved to enter into award the contracts per the recommendations provided by Facilities Maintenance Director Bob Baker and to approve the following City of Wharton Resolutions 2011-13 thru 2011-15, which reads as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011-13**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR THE BUILDING ERECTION OF THE NEW BUILDING FOR THE CITY OF WHARTON FIRE STATION BUILDING AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE THE PURCHASE AGREEMENT.**

**WHEREAS,** the City of Wharton received quotes in accordance with the City of Wharton purchasing policy for the building erection of the new building for the City of Wharton Fire Station Expansion Project; and

**WHEREAS,** K & P Manufacturing submitted the lowest and best qualified bid in the amount of \$15,540.00 in accordance with the specifications for the new building erection for the Wharton Fire Station Expansion Project; and

**WHEREAS,** the Wharton City Council wishes to award the agreement to K & P Manufacturing for submitting the lowest and best qualified bid in the amount of \$15,540.00 for the new building erection; and

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager to execute all necessary documents related to the new building erection for the Wharton Fire Station Expansion Project; and

**WHEREAS,** this resolution is passed in accordance with the bids provided.

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

**Section I.** That the Wharton City Council hereby approves to award a contract to K & P Manufacturing in the amount of \$15,540.00 for the new building erection for the City of Wharton Fire Station Expansion Project.

**Section II.** That the Wharton City Council hereby authorizes the City Manager to execute all necessary documents related to the new building erection for the Wharton Fire Station Expansion Project.

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> of March 2011.

**CITY OF WHARTON, TEXAS**

**By:**

\_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

**CITY OF WHARTON  
RESOLUTION NO. 2011-14**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR THE NEW BUILDING SLAB (FOUNDATION) FOR THE CITY OF WHARTON FIRE STATION BUILDING AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE THE PURCHASE AGREEMENT.**

**WHEREAS,** the City of Wharton received quotes in accordance with the City of Wharton purchasing policy for the new building slab (foundation) for the City of Wharton Fire Station Expansion Project; and



City of Wharton  
Regular City Council Meeting  
March 14, 2011

**WHEREAS,** K & P Manufacturing submitted the lowest and best qualified bid in the amount of \$7,770.00 in accordance with the specifications for the new building slab (foundation) for the Wharton Fire Station Expansion Project; and

**WHEREAS,** the Wharton City Council wishes to award the agreement to K & P Manufacturing for submitting the lowest and best qualified bid in the amount of \$7,770.00 for the new building slab (foundation); and

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager to execute all necessary documents related to the new building slab (foundation) for the Wharton Fire Station Expansion Project; and

**WHEREAS,** this resolution is passed in accordance with the bids provided.

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

**Section I.** That the Wharton City Council hereby approves to award a contract to K & P Manufacturing in the amount of \$7,770.00 for the new building slab (foundation) for the City of Wharton Fire Station Expansion Project.

**Section II.** That the Wharton City Council hereby authorizes the City Manager to execute all necessary documents related to the new building slab (foundation) for the Wharton Fire Station Expansion Project.

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> of March 2011.

**CITY OF WHARTON, TEXAS**

**By:**

\_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

**CITY OF WHARTON  
RESOLUTION NO. 2011-15**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR THE NEW BUILDING MATERIALS (STEEL) FOR THE CITY OF WHARTON FIRE STATION BUILDING AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE THE PURCHASE AGREEMENT.**

City of Wharton  
Regular City Council Meeting  
March 14, 2011

**WHEREAS,** the City of Wharton received quotes in accordance with the City of Wharton purchasing policy for the new building materials (steel) for the City of Wharton Fire Station Expansion Project; and

**WHEREAS,** Zarsky's Lumber Company, Inc. submitted the best qualified bid in the amount of \$5,590.00 in accordance with the specifications for the new building materials (steel) for the Wharton Fire Station Expansion Project; and

**WHEREAS,** the Wharton City Council wishes to award the agreement to Zarsky's Lumber Company, Inc. for submitting the best qualified bid in the amount of \$5,590.00 for the new building materials (steel); and

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager to execute all necessary documents related to the new building materials (steel) for the Wharton Fire Station Expansion Project; and

**WHEREAS,** this resolution is passed in accordance with the bids provided.

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

**Section I.** That the Wharton City Council hereby approves to award a contract to Zarsky's Lumber Company, Inc. in the amount of \$5,590.00 for the new building materials (steel) for the City of Wharton Fire Station Expansion Project.

**Section II.** That the Wharton City Council hereby authorizes the City Manager to execute all necessary documents related to the new building materials (steel) for the Wharton Fire Station Expansion Project.

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> of March 2011.

**CITY OF WHARTON, TEXAS**

**By:**

\_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The fourteenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council rescinding Resolution No. 2010-56 and approving the purchase of an ambulance from Dallas Dodge and authorizing the Mayor of the City of Wharton to execute the

agreement. Finance Director Joan Anandel addressed the City Council regarding the payment of the ambulance that was authorized by the City of Wharton Resolution No. 2010-56 to Frazer, Ltd. in the amount of \$119,900.00. Mrs. Anandel stated that on August 23, 2010, the Wharton City Council approved the purchase of an ambulance from Frazer through the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program in the amount of \$119,900. She said the ambulance was delivered to the City; however, the payment should have been made to Dallas Dodge Chrysler Jeep instead of Frazer, Ltd. since Frazer, Ltd. only acted as the converter and the actual purchase of the ambulance must go through the franchise dealer, which in this case was Dallas Dodge Chrysler Jeep. Mrs. Anandel presented a copy of a letter dated March 3, 2011 from Ms. Laura Richardson, Executive Vice-President of Frazer, Ltd confirming that the payment should be made to Dallas Dodge Chrysler Jeep. After some discussion, Councilmember Bryce D. Kocian moved to approve a draft resolution rescinding Resolution No. 2010-56, authorizing payment to Dallas Dodge Chrysler Jeep for the ambulance, and approving City of Wharton Resolution No. 2011-16, which reads as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011-16**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RESCINDING RESOLUTION NO. 2010-56 AND APPROVING THE PURCHASE OF AN AMBULANCE FROM DALLAS DODGE CHRYSLER JEEP THROUGH THE HOUSTON-GALVESTON AREA COUNCIL COOPERATIVE PURCHASING PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ANY DOCUMENTS RELATED TO SAID PURCHASE.**

**WHEREAS,** The Wharton City Council determined it was in the best interest of the citizens of the City of Wharton to purchase a new ambulance for the City of Wharton EMS Department; and

**WHEREAS,** The Wharton City Council wishes to rescind Resolution No. 2010-56 approving the purchase of an ambulance from Frazer, Ltd., in the amount of \$119,900; and

**WHEREAS,** The Wharton City Council wishes to purchase said ambulance from Dallas Dodge Chrysler Jeep through the Houston-Galveston Area Council Cooperative Purchasing Program in the amount of \$119,900; and

**WHEREAS,** The City of Wharton and Dallas Dodge Chrysler Jeep wishes to be bound by the conditions set forth in the agreement; and

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

**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 rescinds Resolution No. 2010-56 authorizing the purchase of an ambulance from Frazer, Ltd. in the amount of \$119,900.00.

**Section II.** That the Wharton City Council hereby approves the purchase of an ambulance from Dallas Dodge Chrysler Jeep in the amount of \$119,900.

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

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

**Passed, Approved, and Adopted** this the 14<sup>th</sup> day of March 2011.

**CITY OF WHARTON**

By: \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The fifteenth item discussed on the agenda was to review and consider City Council authorization for the City Staff to solicit bids for the FM 102 (Ogden Street) Sanitary Sewer Improvement Project. City Manager Andres Garza, Jr. presented a copy of the letter dated February 18, 2011 from Public Works Director Carter Miska, P.E. regarding the FM 102 (Ogden Street) Sanitary Sewer Improvement Project. He said that the City received a violation from the Texas Commission on Environmental Quality (TCEQ) on January 28, 2011 in response to complaints of odor near Ogden and Richmond Road. He said that City Staff was working with BEFCO Engineering, Inc. to find a solution to the problem and to ensure compliance with TCEQ regulations. City Manager Andres Garza, Jr. stated that the problem was occurring due to an existing clay sewer line that had a “belly” in it and the manholes were failing due to age. He said the “belly” or blockage was causing sewer to back up into the manhole on Ogden Street and the aging manhole was leaking into the catch basin near College Street causing the bad odor. He further stated in Mr. Miska’s memorandum that this particular project was difficult to correct since the existing sewer line ran under a Wharton Tractor Company building.

City Manager Garza stated that the City Council Public Works Committee met on February 21, 2011 and recommended the City Staff to seek quotes to conduct the project. He said BEFCO Engineering, Inc. was proposing to replace the old clay sewer line with new PVC, SDR-26 sewer line and replace two manholes. He further stated that BEFCO anticipated the cost to correct the problem should not have exceeded \$45,000.00; however, the only quote the City received was from Supak Construction Company in the amount of \$64,089. City Manager Andres Garza, Jr. stated that the quote was greater than \$50,000.00, which was the maximum allowed by State law and City purchasing policy without advertising for a formal bid. City Manager Garza stated that the City Staff was requesting the City Council authorization to solicit formal sealed bids for the project to bring the City into compliance with TCEQ regulations. After some discussion, Councilmember Donald Mueller moved to approve authorization for the City Staff to solicit bids for the FM 102 (Ogden Street) Sanitary Sewer Improvement Project. Councilmember Bryce D. Kocian 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 designating a Consultant Selection Committee and approving the selection criteria for the procurement of professional engineering/architectural services for the City of Wharton Sidewalk Accessibility and Historic Streetscape Project. City Manager Andres Garza, Jr. stated that on January 10, 2011, the Wharton City Council approved the agreement between the City of Wharton and the Texas Department of Transportation (TxDOT) for the City of Wharton Sidewalk Accessibility and Historic Streetscape Project. City Manager Garza informed the City Council that the City needed to move the project forward and designate a Consultant Selection Committee for the selection of professional engineering/architectural services for the Wharton Sidewalk Accessibility and Historic Streetscape Project. He stated that TxDOT had informed the City that the project should be let for construction by August 2011; therefore, professional services were required and the City was required to follow the federal and state guidelines for procuring these services. He further stated that the Consultant Selection Committee had been generally made up of the City Council Public Works Committee, Public Works Director Carter Miksa, P.E. and City Manager Andres Garza, Jr. He said that the City Council Public Works Committee met on Monday, March 14, 2011 at 12:00 Noon and was recommending the City Council consider designating the Consultant Selection Committee for the Wharton Sidewalk Accessibility and Historic Streetscape Project. After some discussion, Councilmember Donald Mueller moved to approve a resolution for the selection criteria for the procurement of professional engineering/architectural services for the City of Wharton Sidewalk Accessibility and Historic Streetscape Project. City of Wharton Resolution 2011-17 reads as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011 - 17**

**A RESOLUTION OF THE WHARTON CITY COUNCIL DESIGNATING A CONSULTANT SELECTION COMMITTEE AND SELECTION CRITERIA FOR THE PROCUREMENT OF PROFESSIONAL ENGINEERING/ARCHITECTURAL SERVICES FOR THE CITY OF WHARTON SIDEWALK ACCESSIBILITY AND HISTORIC STREETSCAPE PROJECT.**

**WHEREAS,** the Wharton City Council approved the City of Wharton Resolution No. 2011-05 approving the City of Wharton to enter into an Advance Funding Agreement for a Transportation Enhancement (TE) Project for the City of Wharton Sidewalk Accessibility and Historic Streetscape Project with the Texas Department of Transportation; and

**WHEREAS,** the City of Wharton wishes to follow the federal and state regulations for the Procurement Process for Professional Services; and

**WHEREAS,** the City Council wishes to designate a consultant selection committee (Attached A) for the procurement of professional engineering/architectural services for the engineering/architectural phase of the City of Wharton Sidewalk Accessibility and Historic Streetscape Project; and

**WHEREAS,** the Consultant Selection Committee will recommend an engineering firm to the City Council for consideration; and

**WHEREAS,** it is the responsibility of the consultant selection committee to follow the below listed recommended guidelines (Attached B):

- a. Procurement Provisions for Professional Services,
- b. The Texas Engineering Practice Act,
- c. Procurement Standards, Uniform Grant and Contract Management Standards,
- d. Texas Government Code - Chapter 2254 Professional and Consulting Services, Subchapter A. Professional Services,
- e. Proposal Rating Sheet for Engineering/Architectural Services.

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

**Section I:** The City Council hereby designates a consultant selection committee for the procurement of professional engineering services for the construction phase for infrastructure for the City of Wharton City of Wharton Sidewalk Accessibility and Historic Streetscape Project.

**Section II:** The City of Wharton hereby accepts the State of Texas Procurement Process procedures for Professional Services (Attached B).

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

**Passed, Approved and Adopted this 14<sup>th</sup> day of March 2011.**

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**Attest:**

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**Paula Favors**  
City Secretary

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

The seventeenth item discussed on the agenda was to review and consider City Council authorization for the City Staff to terminate contract negotiations with Utility Service Company for the City of Wharton Water Tank Maintenance Program. City Manager Andres Garza, Jr. stated that the City of Wharton received Requests for Qualifications for the Water Tank Maintenance Program on February 16, 2010. He said the City Council Finance Committee reviewed the proposals submitted by Utility Service Company, which was the only response the City received to its Request for Qualifications. City Manager Garza further stated that on June 22, 2010, the Finance Committee met and recommended the City Staff enter into contract negotiations with the company. City Manager Garza added that since that time, through the combined efforts of Attorney Richard O'Neil of Davidson & Triolo and the City Staff, the City was unable to secure a reasonable contract with the company. He stated the City Staff was recommending the City Council consider terminating contract negotiations with Utility Service Company. After some discussion, Councilmember Donald Mueller moved to approve authorization for the City Staff to terminate contract negotiations with Utility Service Company for the City of Wharton Water Tank Maintenance Program. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The eighteenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving a Permanent Easement Agreement, an Amendment to Right of Way and Easement Agreement, and a Recording Memorandum of Permanent Easement Agreement between the City of Wharton and Enterprise Texas Pipeline, LLC and authorizing the Mayor of the City of Wharton to execute all said agreements. City Manager Andres Garza, Jr. stated to the City Council that he and City Attorney Paul Webb met with Enterprise Texas Pipeline, LLC representatives regarding a proposed pipeline easement agreement. City Manager Garza also presented a copy of a map indicating the location of the property and proposed pipeline. City Manager Garza also presented to the City Council a copy of the Recording Memorandum of Permanent Easement Agreement with Enterprise Texas Pipeline, LLC. He said that the City Council Public Works Committee would meet Monday, March 14, 2011 at 12:00 Noon and was recommending the City Council consider approving the easement agreement. After some discussion, Councilmember Terry David Lynch moved to approve a resolution of the Wharton City Council for a Permanent Easement Agreement, an Amendment to Right of Way and Easement Agreement, and a Recording Memorandum of Permanent Easement Agreement between the City of Wharton and Enterprise Texas Pipeline, LLC and authorizing the Mayor of the City of Wharton to execute all said agreements contingent upon the Wharton Industrial Foundation successfully negotiating an agreement with Enterprise Texas Pipeline, LLC., the City of Wharton Resolution 2011-18 reads as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011 - 18**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PERMANENT EASEMENT AGREEMENT, AN AMENDMENT TO RIGHT OF WAY AND EASEMENT AGREEMENT, AND A RECORDING MEMORANDUM OF PERMANENT EASEMENT AGREEMENT BETWEEN THE CITY OF WHARTON AND ENTERPRISE PIPELINE, LLC AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the Enterprise Texas Pipeline, LLC wishes to construct a pipeline across City of Wharton property; and

**WHEREAS,** the Wharton City Council wishes to enter into a Permanent Easement Agreement, an Amendment to Right of Way and Easement Agreement, and a Recording Memorandum of Permanent Easement Agreement with Enterprise Texas Pipeline, LLC; and

**WHEREAS,** the City of Wharton and Enterprise Texas Pipeline, LLC wishes to be bound by the conditions as set forth in the said agreements.

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the Permanent Easement Agreement, the Amendment to Right of Way and Easement Agreement, and the Recording Memorandum of Permanent Easement Agreement with Enterprise Texas Pipeline, LLC; and

**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 the Permanent Easement Agreement, the Amendment to Right of Way and Easement Agreement, and the Recording Memorandum of Permanent Easement Agreement with Enterprise Texas Pipeline, LLC.

**Section II.** The City of Wharton and Enterprise Texas Pipeline, LLC are hereby bound by the conditions as set forth in said agreements.

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



**Passed, Approved, and Adopted** this 14<sup>th</sup> day of March 2011.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The nineteenth item on the agenda was to review and consider City of Wharton Additional Ahldag Sanitary Sewer Rehab Project, TxCDBG Contract No. R729710 – AR TurnKee Construction Company, Inc. – 3<sup>rd</sup> and Final Pay Request in the amount of \$87,865.25. Mr. Carlos Cotton, P.E. with Jones & Carter, Inc., presented a copy of the letter dated March 4, 2011 from Mr. Tommy L. Vance, P.E. providing the 3<sup>rd</sup> and Final Pay Request submitted by AR TurnKee Construction Co., Inc. in the amount of \$87,865.25 for the City of Wharton’s Additional Ahldag Sanitary Sewer Rehab Project, TxCDBG Contract No. R729710. After some discussion, Councilmember Bryce D. Kocian moved to approve City of Wharton Additional Ahldag Sanitary Sewer Rehab Project, TxCDBG Contract No. R729710 – AR TurnKee Construction Company, Inc. – 3<sup>rd</sup> and Final Pay Request in the amount of \$87,865.25. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider City Manager request for Travel Reimbursement. City Manager Andres Garza, Jr. presented a copy of the Travel Reimbursement request in the amount of \$573.85 for the period of December 14, 2010 through January 17, 2011. After some discussion, Councilmember Bryce D. Kocian moved to approve the City Manager request for Travel Reimbursement. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The twenty-first item on the agenda was the City of Wharton City Council Boards, Commissions, and Committees. City Manager Andres Garza, Jr. stated that vacancies existed on the following City Council Boards, Commissions, and Committees:

- A. Wharton Regional Airport Board.
- B. Beautification Commission.
- C. Building Standards Commission.

City of Wharton  
Regular City Council Meeting  
March 14, 2011

- D. Electrical Board.
- E. Holiday Light Decorating Chairman.
- F. Mayor's Committee on People with Disabilities.
- G. City Council Committees:
  - 1. Housing Committee.
  - 2. Public Health Committee.
  - 3. Telecommunications Committee.
  - 4. Wharton Economic Development Corporation Board of Directors Selection Committee.

After some discussion, no action was taken.

The twenty-second item on the agenda was to review and consider City Council, Committee, Commissions, and Board Reports. City Manager Andres Garza, Jr. presented the following City Council Committee, Commission and Board reports to the City Council:

- A. Wharton Regional Airport Board meeting held March 1, 2011.
- B. City Council Consultant Selection Committee meeting held March 3, 2011.
- C. Beautification Commission meeting held March 9, 2011.
- D. City Council Public Works Committee meeting to be held March 14, 2011.

After some discussion, no action was taken.

The twenty-third item on the agenda was adjournment. After some discussion, Councilmember Donald Mueller moved to adjourn the meeting. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The meeting adjourned at 8:05 p.m.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**Domingo Montalvo, Jr**  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**Paula Favors**  
**City Secretary**